



BERKELEY ELECTRIC COOPERATIVE, INC.

Your Touchstone Energy® Partner 

March 8, 2006

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

2006 MAR 16 A 10:04

AOR 2006-17

Federal Election Commission
Office of General Counsel
999 E Street NW
Washington, DC 20463

Gentlemen:

Berkeley Electric Cooperative, Inc. is an electric distribution cooperative headquartered in Moncks Corner, South Carolina. Since we are a supplier of electricity, many of our employees are also members and receive this service from the cooperative. We have approximately 220 employees that fall into the following categories:

Salaried members

Salaried non-members

Hourly members

Hourly non-members

The cooperative operates under the guidelines established by the Rural Utilities Service and follows cooperative principles. In order to receive electricity from the cooperative, a \$5.00 membership must be paid. Each member has one vote on items brought before the membership at the annual meeting in accordance with the bylaws. The cooperative is a 501 (c) (12) organization except from Federal and State income taxes. Our total membership is in excess of 60,000 members.

The organizations to which designated voluntary contributions are to be made are:

ACRE – Action Committee for Rural Electrification – a nationwide Federal PAC for electric cooperatives.

ECHO – Electric Cooperatives Help Organization – a statewide PAC for electric cooperatives.

BEC Employee Fund – a fund from voluntary contributions for employees to directly support State and local representatives.

Post Office Box 1234
Moncks Corner, SC 29461
(843) 761-8200
(843) 825-3383
Fax (843) 572-1280

Post Office Box 128
Johns Island, SC 29457
(843) 559-2458
Fax (843) 559-3876

Post Office Box 1549
Goose Creek, SC 29445
(843) 553-5020
Fax (843) 553-6761

3745 N. Highway 17
Awendaw, SC 29429
(843) 884-7525
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ELECTRIC COOPERATIVE, INC.

Federal Election Commission
Office of General Counsel
March 8, 2006
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BEC PAC – a fund from voluntary contributions for employees to directly support Federal representatives.

We have designed a form to solicit contributions from the restricted class of employees giving permission for payroll deductions to support specific political organizations. We are asking an opinion as to (1) which categories of employees are considered to be in the restricted class (2) does the attached form meet the requirements of the FEC to be used by the restricted class to designate any voluntary payroll deducted contributions (3) if any parts of the form do not comply with FEC law, what are they and what specific changes need to be made in order to be in compliance.

Please contact us for any additional information at 843-899-8421 or MikeK@becsc.com.

Sincerely,



Michael Kearney
Treasurer, Berkeley Electric Cooperative, Inc. PAC

MK/lp

Enclosure

RESTRICTED CLASS

BERKELEY ELECTRIC COOPERATIVE, INC.
VOLUNTARY EMPLOYEE DONATION FORM

Option 1 _____

I, the undersigned, do hereby certify my desire to voluntarily donate to the organizations listed below. The purpose of these organizations is for the benefit of political candidates and activities on a state and national level that support rural electric cooperatives. I authorize Berkeley Electric Cooperative, Inc. to deduct the following designated amounts per pay period from my paycheck. I understand that this authorization will remain in effect perpetually, unless and until rescinded by me in writing. I am also fully aware that should I elect not to participate I may do so without any concern of retaliation.

RECOMMENDED AMOUNTS PER PAY PERIOD

	Authorized Amount	HOURLY			SALARIED	
		NON- SUPERVISOR	SUPERVISOR	NON- SUPERVISOR	SUPERVISOR	STAFF
AMOUNT PPD		\$3.00	\$5.00	\$7.00	\$7.00	\$9.00
ACRE (Action Committee for Rural Electrification)	_____	0.96	0.96	0.96	0.96	3.85
ECHO (Electric Cooperatives Help Organization)	_____	0.42	0.42	0.42	0.42	0.42
EMPL FUND (State Candidate Support)	_____	0.66	1.47	2.23	2.23	1.88
BEC PAC (Federal Candidate Support)	_____	0.96	2.15	3.39	3.39	2.85

The recommended contribution amounts listed above are merely suggestions. Employees may choose to give more or less than those stated. BEC will not favor nor disfavor employees according to pledged donations.

Option 2 _____

I am providing a one time contribution in the amount of \$ _____ to be distributed as designated above.

Option 3 _____

I elect not to participate at this time.

Employee Name: _____ Employee Number: _____

Social Security Number: _____

Address: _____

Employee Signature: _____ Date: _____

cc: Payroll
Employee Donation Committee



FEDERAL ELECTION COMMISSION

Washington, DC 20463

March 27, 2006

**Michael Kearney, Treasurer
Berkeley Electric Cooperative, Inc. PAC
PO Box 1234
Moncks Corner, SC 29461**

Dear Mr. Kearney:

This refers to your letter received on March 16, 2006 on behalf of the Berkeley Electric Cooperative, Inc. ("BEC") concerning the application of the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations to the solicitation of contributions from BEC employees to certain political committees.

The Act authorizes the Commission to issue an advisory opinion in response to a "complete written request" from any person with respect to a specific transaction or activity by the requesting person. 2 U.S.C. § 437f(a). Commission regulations explain that a request must set forth a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. 11 CFR 112.1(b). Commission regulations also require that advisory opinion requests must include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made. 11 CFR 112.1(c). The regulations further explain that the Office of General Counsel ("OGC") shall determine if a request is incomplete or otherwise not qualified as an advisory opinion request. 11 CFR 112.1(d).

In view of the above requirements, we need the following additional information:

- 1) Under 11 CFR 114.7(k)(1), a federated cooperative may solicit the members of its affiliates provided that their respective separate segregated funds ("SSF") are considered affiliated. Reports filed by BEC's SSF, BEC PAC, and the National Rural Electric Cooperative Association's ("NRECA") SSF, ACRE, do not indicate that BEC PAC and ACRE are affiliated. Please provide information on whether or not BEC PAC and ACRE are affiliated. See 11 CFR 110.3(a)(2) and (3) (setting forth factors to determine affiliation). Please also include in your response copies of the articles of incorporation and bylaws of both BEC and NRECA, and any other governing documents that address membership in BEC and NRECA.**
- 2) You describe ECHO (Electric Cooperatives Help Organization) as "a statewide PAC for electric cooperatives." Please explain the relationship, if any, between ECHO, BEC, and BEC PAC. Also, please describe more fully ECHO's activity.**

- 3) You describe BEC Employee Fund as "a fund from voluntary contributions for employees to directly support State and local representatives." Please explain the relationship, if any, between BEC Employee Fund, BEC, and BEC PAC. Also, please describe more fully BEC Employee Fund's activities.

Upon receiving your responses to the above questions, we will give further consideration to your inquiry as an advisory opinion request. If you have any questions about the advisory opinion process or this letter, please contact Tony Buckley, an attorney in OGC, at 202-694-1650.

Sincerely,

A handwritten signature in cursive script that reads "Rosemary C. Smith". The signature is written in black ink and is positioned above the printed name and title.

Rosemary C. Smith
Associate General Counsel



BERKELEY ELECTRIC COOPERATIVE, INC.

Your Touchstone Energy® Partner 

~~RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2006 APR 31 11 A 08~~

April 26, 2006

Ms. Rosemary C. Smith
Associate General Council
Federal Election Commission
999 E Street NW
Washington, DC 20463

Dear Ms. Smith:

The following information is being provided based on your letter dated March 27, 2006 in response to our request for an advisory opinion for employee payroll deductions and approval form.

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COMMISSION
OFFICE OF GENERAL
COUNSEL
2006 MAY - 1 11 A 00 11

1. We have included by-laws from NRECA and Berkeley Electric Cooperative, Inc. Also, included is a copy of AO 1999-40. This advisory opinion appears to state a blanket affiliation between electric cooperatives and NRECA. However, due to the question of affiliation raised in your letter, we have not filed our returns indicating this affiliation. We will amend our returns if necessary upon the final determination.
2. Enclosed are the by-laws for the Electric Cooperative Help Organization (ECHO). This organization was organized by the Electric Cooperatives in South Carolina. It is registered with the South Carolina Ethics Commission and files the required reports with the commission. As stated in the attached documents, the purpose of ECHO is to promote the interest of rural electrification by supporting candidates that are friends of the rural electric program on a non-partisan basis. This organization does not contribute to Federal campaigns and operates under the laws of South Carolina. Employees, trustees, and members of electric cooperatives in South Carolina are eligible to become members in ECHO.
3. The Berkeley Electric Cooperative Employee Fund is a non-partisan, political action committee registered with the South Carolina Ethics Commission. The purpose of the organization is to support candidates that support rural electrification in South Carolina. Employees of Berkeley Electric Cooperative are permitted to participate on a voluntary basis in the fund. Donations to the fund are used to make contributions to state and local candidates.

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BERKELEY

ELECTRIC COOPERATIVE, INC.

Ms. Rosemary C. Smith
April 26, 2006
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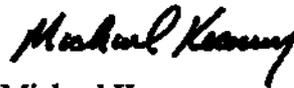
No Federal candidates are supported from this fund. The Berkeley Electric Cooperative Employee Fund operates under the laws of South Carolina.

It is our intent to provide payroll deductions for those employees who are members and other restricted classes of employees through voluntary payroll deduction. They will specifically state how much, if any, they wish to contribute to any of the political funds.

Non Members or other non-restricted classes of employees will not be permitted to contribute to Action Committee for Rural Electrification (ACRE) or the Berkeley Electric Cooperative PAC through payroll deduction.

We hope this information will answer any remaining questions. However, please contact us if additional information is required at 843-899-8421 or MikeK@becsc.com.

Sincerely,



Michael Kearney
Treasurer, Berkeley Electric Cooperative, Inc. PAC

MK/lp

Enclosures

**ELECTRIC COOPERATIVE HELP ORGANIZATION
(ECHO)
BYLAWS**

I. Board of Directors

- A. A Board of Directors shall be elected annually by the membership.
- B. In order to promote broad representation among the membership of ECHO, the Board of Directors shall be composed of one ECHO member from each local unit having at the time of election paid dues for that year.
- C. The local units for ECHO shall be composed of the geographic service area of each electric cooperative within South Carolina and shall be designated as that ECHO unit.
- D. Board Members shall receive no fees for their service as directors but shall receive expenses and compensations as follows:

ECHO may at the discretion of its Board of Directors authorize payment of expenses of the members of the Board of Directors or their authorized representatives at any meeting of the Board of Directors or the Executive Committee or any meeting which two-thirds (2/3) of ECHO's Board of Directors has designated as beneficial to the management, administration, and regulation of the business and affairs of the association.

- E. Any vacancy occurring on the Board of Directors, whether by death, resignation, or disqualification, shall be filled by a majority vote of the remaining Board of Directors; any Director thus elected shall serve the unexpired term of the vacating person.

II. Executive Committee

- A. The Executive Committee shall consist of seven (7) members, the Chairman and the Secretary-Treasurer of ECHO serving as ex-officio members and five (5) members elected annually by the Board of Directors. Of those Executive Committee Members elected by the Board, three (3) of the members shall be members of the Board of Directors and two (2) members shall be local unit Membership Chairpersons. With the exception of the Secretary-Treasurer, no Executive Committee member may serve more than two consecutive terms, but any persons having served two consecutive terms may, after one year, again qualify for nomination and election to the committee."

ECHO Bylaws
Page Three

IV. Membership and Membership Meetings - continued

- D. The Chairman shall give reasonable notice to all ECHO members of the time and place of all such meetings.**

V. Support of Candidates

- A. Contributions to testimonial dinners, parties, fund raising events, etc. may be made on the decision of the Executive Committee.**
- B. Contributions to an individual candidate must be approved by a majority of the Executive Committee.**

VI. These Bylaws may be amended by a majority vote of the Board of Directors.

**ELECTRIC COOPERATIVE HELP ORGANIZATION
(ECHO)
ARTICLES OF ASSOCIATION**

- I. **Purpose:** The purpose of the association is to promote the interest of rural electrification by means of support for friends of rural electrification. The association is non-partisan and composed of individuals who have voluntarily joined together for the above-mentioned purpose.
- II. **Name of Association:** The name of the association shall be the Electric Cooperative Help Organization (ECHO).
- III. **Term:** The Association shall begin business on June 6, 1975, and continue until termination as hereinafter provided.
- IV. **Location and Address of the Principal Office:** The principal office of ECHO shall be located at the office of the treasurer.
- V. **Board of Directors:** The management of the Association shall be vested in a Board of Directors which shall have power to make all decisions except those reserved to the membership by these Articles or the Bylaws of the Association. The Board of Directors shall choose from its members an Executive Committee as provided in the Bylaws which shall be vested with all the powers of the Board of Directors during the interval between meetings of the Board. The Board shall choose by majority vote the officers of the Association who may or may not be members of the Board of Directors.
- VI. **Membership Eligibility and Annual Dues:** Membership in ECHO shall be open to all employees, trustees and members of electric cooperatives in the State of South Carolina. Membership dues shall be twelve dollars (\$12.00) per year. The membership year shall be September 1 through August 31. Persons joining ECHO after the membership year begins will be considered as members for that full membership year. Dues will be payable as determined by the Board.
- VII. **Compliance with Laws:** ECHO shall comply fully with all laws relating to the activities of such an association and shall file all required reports.
- VIII. (A) ECHO may be dissolved by the approval of three-fourths (3/4) of the Board of Directors or two-thirds (2/3) of all of its then active members at any regular or special meeting. Reasonable notice of any proposal by the Board of Directors to dissolve said Association shall be given by the chairman to all said members prior to the vote on the matter of dissolution. If said Association shall be dissolved, the payment of all debts and liabilities shall be made and the remaining funds shall be donated to any corporation, association or organization which is exempt for income tax purposes under the South Carolina Code. In no event shall benefit inure to any private member or individual.

ARTICLES OF ASSOCIATION

Page Two

VIII. Continued

(B) In the event of dissolution under Article VIII (a), the Executive Board shall designate what exempt organization or organizations shall receive the remaining funds.

VI. Amendments: These Articles may be amended at any regular or special meeting by the affirmative vote of a two-thirds (2/3) majority of the Board of Directors or a majority of the entire membership of the association.



Tony Buckley /FEC/US

05/04/2006 04:29 PM

To MikeK@becsc.com

cc

Subject BEC Advisory Opinion Request - May 4, 2006 Telephone Conversations

Mr. Kearney -

This is to confirm our telephone conversations of today, May 4, 2006, regarding the Advisory Opinion Request you submitted on behalf of Berkeley Electric Cooperative, Inc. ("BEC") and BEC PAC. The conversations followed up on your submission of additional information dated April 26, 2006.

With respect to BEC's membership in the National Rural Electric Cooperative Association ("NRECA"), you stated that BEC has been accepted into membership of NRECA pursuant to NRECA's bylaws, and that BEC is currently a member in good standing of NRECA.

With respect to Advisory Opinion 1999-40, which you cited in your April 26 submission, like the two local cooperatives discussed in that advisory opinion (Southern Maryland Electric Cooperative ("SMEC") and Rappahannock Electric Cooperative, Inc. ("REC")), BEC is a distribution cooperative. According to you, NRECA treats all distribution cooperatives similarly for membership purposes, and the affiliation analysis in Advisory Opinion 1999-40 regarding the relationship of SMEC and REC with NRECA accurately describes in all material respects the relationship between BEC and NRECA.

Thank you for taking the time to clarify these points.

Bylaws of
**BERKELEY
ELECTRIC**
Cooperative, Inc.



Your Business Energy Partner

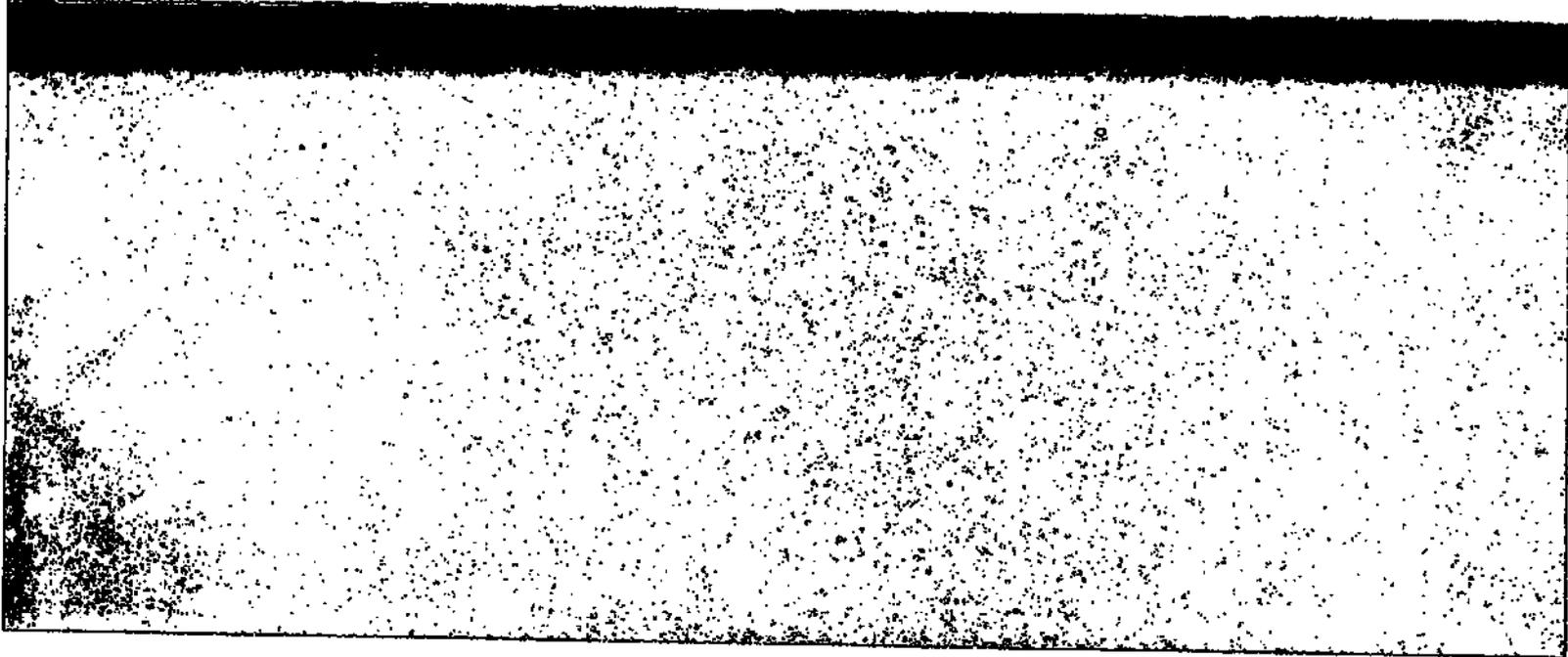
**"OWNED BY THOSE
IT PROUDLY SERVES"**

Moncks Corner, SC

BYLAWS OF

BERKELEY ELECTRIC
COOPERATIVE, INC.

AS AMENDED THROUGH
NOVEMBER 13, 2004



BERKELEY ELECTRIC COOPERATIVE

Preamble to Bylaws October 10, 1992

Berkeley Electric Cooperative is committed to providing the people and communities of the South Carolina Lowcountry with quality, dependable electric utility service. We are also committed to linking modern technology, economic development, community awareness and environmental stewardship in ways that enhance the lives and insure the future of our member/owners for their communities.

To fulfill these commitments, we, the members of Berkeley Electric Cooperative, hereby adopt this Preamble to our Bylaws, stating our common goals, and directing the Board of Trustees to vigorously pursue these objectives.

First, Berkeley Electric Cooperative will pursue OPERATIONAL EXCELLENCE in all aspects of technology, services and member relations, by setting, achieving and maintaining high standards in management, productivity, efficiency and reliability in customer services, and by instilling in all employees a spirit of cooperation that motivates them to perform their jobs with knowledge, attention to detail, and genuine courtesy.

Second, Berkeley Electric Cooperative will provide EFFECTIVE COST MANAGEMENT by the wise use of resources, regular performance measurements, and the utilization of the most appropriate technology throughout its system for better service at competitive costs, and by taking appropriate measures to build equity, and take other steps, to move our organization towards financial independence.

Third, Berkeley Electric Cooperative will undertake ECONOMIC DEVELOPMENT that will establish this Cooperative as the energy provider of choice for the Lowcountry, and will continue working to improve the economic development opportunities of its member/owners and their communities, especially in bringing new jobs, and retaining existing jobs.

Fourth, Berkeley Electric Cooperative will insist upon SENSITIVITY TO PEOPLE by recognizing and understanding the concerns of its member/owners, employees, and community residents; by providing adequate resources to promote the civic and community interests of its member/owners; and by striving to insure that all decisions concerning electric utility services are, whenever possible, in concert with the plans, goals and values of local communities.

Fifth, Berkeley Electric Cooperative will act as a RESPONSIBLE STEWARD OF THE ENVIRONMENT, by providing electric power and other services in a fashion that protects the special beauty of the Lowcountry, avoids environmental degradation and recognizes that this non-profit, consumer-owned organization is an integral part of a united and living community.

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**BYLAWS OF
BERKELEY ELECTRIC
COOPERATIVE, INC.**

**ARTICLE I
MEMBERSHIP**

SECTION 1.01. Eligibility. Any natural person, firm, association, corporation, business trust, partnership, federal agency, State or political subdivision or agency thereof, or any body politic (each hereinafter referred to as "person," "applicant," "him," or "his") shall be eligible to become a member of, and, at one or more premises owned, leased as lessor or lessee, or directly occupied or used by him, to receive electric service from, Berkeley Electric Cooperative, Inc. (hereinafter called the "Cooperative"). No person shall hold more than one membership in the Cooperative; and no membership shall be transferable.

SECTION 1.02. Application for Membership; Renewal of Prior Application. Application for membership—whereby the applicant shall agree to purchase electric power and energy from the Cooperative and to be bound by and to comply with all of the other provisions of the Cooperative's Articles of Incorporation and Bylaws, and all rules, regulations, rate classifications and rate schedules established pursuant thereto, as all the same then exist or may thereafter be duly adopted, repealed or amended (the obligations embraced by such agreement being hereinafter called "membership obligations")—shall be made in writing on a form provided by the Cooperative. With respect to any particular classification of service for which the Board of Trustees ("Board") shall require it, such application shall be accompanied by a supplemental contract, executed by the applicant on a form provided by the Cooperative. The membership application shall be accompanied by the membership fee provided for in Section 1.03, together with any service security deposit, service connection deposit or fee, facilities extension deposit, or contribution in aid of construction or executed supplemental contract that may be required by the Cooperative (hereinafter called "other payments, if any"), which fee and other payments, if any, shall be refunded in the event the application is denied. Any former member of the Cooperative may, by the sole act of paying a new membership fee and any outstanding account plus accrued interest thereon at a reasonable rate as from time to time established by the Board and in effect when such account first became overdue, compounded annually, together with other payments, if any, renew and reactivate any prior application for membership to the same effect as though the application has been newly made on the date of such payment.

SECTION 1.03. Membership Fee; Service Connection Fee or Deposit; Service Security and Facilities Extension Deposits; Contributions in Aid of Construction. The membership fee shall be as fixed from time to time by the Board. The membership fee, together with other payments, if any, shall entitle the member to one service connection. A service connection fee or deposit, in such amount as shall be prescribed by the Cooperative, together with other payments, if any, shall be paid by the member for each additional service connection requested by him.

SECTION 1.04. Joint Membership. A husband and wife, by jointly executing a membership application, may be accepted into joint membership or, if one of them is already a member, may, upon specifically so requesting in writing, automatically convert such membership into a joint membership. The words "member," "applicant," "person," "his" and "him," as used in these Bylaws, shall include a husband and wife applying for or holding a joint membership, unless otherwise clearly distinguished in the text; and all provisions relating to the rights, powers, terms, conditions, obligations, responsibilities and liabilities of membership shall apply equally, severally and jointly to them. Without limiting the generality of the foregoing -

- (a) the presence at a meeting of either or both shall constitute the presence of one member and a joint waiver of notice of the meeting;
- (b) the vote of either or both shall constitute, respectively, one joint vote: PROVIDED, if both be present but in disagreement on a vote, each shall cast only one-half (1/2) vote;
- (c) notice to, or waiver of notice signed or otherwise effected by, either or both shall constitute, respectively, a joint notice or waiver of notice;
- (d) suspension or termination in any manner of either shall constitute, respectively, suspension or termination of the joint membership;
- (e) each, but not both concurrently, shall be eligible to serve as a Trustee of the Cooperative, but only if both meet the qualifications required therefore; and
- (f) neither will be permitted to have any additional service connections except through their one joint membership.

SECTION 1.05. Acceptance into Membership. Upon complying with the requirements set forth in Section 1.02, any applicant shall automatically become a member on the date of his connection for electric service; PROVIDED, the Cooperative may deny an application and refuse to furnish service, or to continue service it has already begun furnishing, if prior to connection of service it determines, or thereafter it discovers, that the applicant is not willing or able to satisfy and abide by the Cooperative's terms

and conditions of membership or that such application should be, or should have been, denied for other good cause, including but not limited to the fact that furnishing service to the applicant would be or is in violation of one or more of the Cooperative's service rules and regulations; PROVIDED, any person so denied and/or refused shall have the right to be heard on the matter by the Board upon timely filing a written request therefor.

SECTION 1.06. Purchase of Electric Power and Energy; Power Production by Member; Application of Payments to All Accounts. The Cooperative shall use reasonable diligence to furnish its members with adequate and dependable electric service, although it cannot and therefore does not guarantee a continuous and uninterrupted supply thereof; and each member, for so long as such premises are owned, leased as lessor or lessee, or directly occupied or used by him, shall purchase from the Cooperative all central station electric power and energy purchased for use on all premises to which electric service has been furnished by the Cooperative pursuant to his membership, unless and except to the extent that the Board may in writing waive such requirement; and shall pay therefor at the times, and in accordance with the rules, regulations, rate classifications and rate schedules (including any monthly minimum amount that may be charged without regard to the amount of electric power and energy actually used) established by the Board and, if in effect, in accordance with the provisions of any supplemental contract that may have been entered into as provided for in Section 1.02. Production or use of electric energy on such premises, regardless of the source thereof, by means of facilities which shall be interconnected with Cooperative facilities, shall be subject to appropriate regulations as shall be fixed from time to time by the Cooperative. Each member shall also pay all other amounts owed by him to the Cooperative as and when they become due and payable. When the member has more than one service connection from the Cooperative, any payment by him for service from the Cooperative shall be deemed to be allocated and credited on a pro rata basis to his outstanding accounts for all such service connections, notwithstanding that the Cooperative's actual accounting procedures do not reflect such allocation and proration.

SECTION 1.07. Excess Payments to be Credited as Member-Furnished Capital. All amounts paid for electric service in excess of the cost thereof shall be furnished by members as capital, and each member shall be credited with the capital so furnished as provided in Article IX of these Bylaws.

SECTION 1.08. Wiring of Premises, Responsibility Therefor; Responsibility for Meter Tampering or Bypassing and for Damage to Cooperative Properties; Extent of Cooperative Responsibility; Indemnification. Each member shall cause all premises receiving

electric service pursuant to his membership to become and to remain wired in accordance with the specifications of the National Electric Code, of any applicable state code or local government ordinances, and of the Cooperative. If the foregoing specifications are variant, the more exacting standards shall prevail. Each member shall be responsible for—and shall hold the Cooperative harmless from and indemnify it and its employees, agents and independent contractors from—death, injury, loss or damage resulting from any defect in or improper use or maintenance of such premises and all wiring and apparatuses connected to or used on the premises. Each member shall make available to the Cooperative a suitable site, as determined solely by the Cooperative, whereon to place the Cooperative's facilities for the furnishing and metering of service and shall permit the Cooperative's authorized employees, agents and independent contractors to have access thereto, safely and without interference from any hostile source, for meter reading, bill collecting and inspection, maintenance, replacement, relocation, repair or disconnection of such facilities, at all reasonable times. As part of the consideration for electric service, each member shall be the Cooperative's bailee of its such facilities and shall accordingly desist from interfering with, impairing the operation of or causing damage to such facilities, and shall use his best efforts to prevent others from doing so. Each member shall also provide such protective devices to his premises, apparatuses or meter base as the Cooperative shall from time to time require in order to protect the Cooperative's facilities and their operation and to prevent any interference with or damage to them. If such facilities are interfered with, impaired in their operation or damaged by the member, or by any other person when the member's reasonable care and surveillance should have prevented such, the member shall hold harmless and indemnify the Cooperative and its employees, agents and independent contractors against death, injury, loss or damage therefrom resulting, including but not limited to the Cooperative's cost of repairing, replacing or relocating any such facilities and its loss; if any, of revenues resulting from the failure or defective functioning of its metering equipment. The Cooperative shall, however, in accordance with its applicable service rules and regulations, reimburse the member for any overcharges for service that may result from a malfunctioning of its metering equipment or any error occurring in the Cooperative's billing procedures. In no event shall the responsibility of the Cooperative for furnishing service extend beyond the point of delivery.

Section 1.09. Member to Grant Easements to Cooperative and to Participate in Required Cooperative Load Management Programs. Each member shall, upon being requested so to do by the Cooperative, execute and deliver to the Cooperative grants of easement or right of way over, across, under and/or on such lands owned, or leased by or to, or mortgaged to, the member, and in accordance with such reasonable terms and conditions,

as the Cooperative shall require for the furnishing of service to him or other members, or for the construction, operation, maintenance or relocation of the Cooperative's electric facilities. Each member shall participate in any required program that may be established by the Cooperative to enhance load management or more efficiently to utilize or to conserve electric energy, or to conduct load research, and shall comply with all related rates and service rules and regulations.

ARTICLE II MEMBERSHIP SUSPENSION AND TERMINATION

SECTION 2.01. Suspension; Reinstatement. Upon his failure, after the expiration of the initial time limit prescribed either in a specific notice to him or in the Cooperative's generally publicized applicable rules and regulations, to pay the amounts due the Cooperative or to cease any other noncompliance with his membership obligations, a person's membership shall automatically be suspended and he shall be in bad standing; and he shall not during such suspension be entitled to receive service or to cast a vote at any meeting of the members. Payment of all amounts due the Cooperative, including any additional charges required for such reinstatement, and/or cessation of any other noncompliance with his membership obligations within the final time limit provided in such notice or rules and regulations, shall automatically reinstate the membership in good standing, in which event he shall thereafter be entitled to receive or continue receiving service from the Cooperative and to vote at meetings of its members.

SECTION 2.02. Termination by Expulsion; Renewed Membership. Upon the failure of a suspended member to be automatically reinstated to full membership as provided in Section 2.01, he may, without further notice but only after due hearing before the Board if such is in writing requested by him, be expelled by resolution of the Board. After the expulsion of a member, he may not again become a member except upon new application therefor as provided in Sections 1.02 and 1.05. The Board, acting upon principles of general application in such cases, may establish such additional terms and conditions for renewed membership as it determines to be reasonably necessary to assure the applicant's compliance with his membership obligations.

SECTION 2.03. Termination by Withdrawal or Resignation. A member may, in good standing, withdraw or resign from membership upon such generally applicable conditions as the Board shall prescribe and upon either (a) ceasing to (or, with the approval of the Board, resigning his membership in favor of a new applicant who also shall) own, lease as lessor or lessee, or directly occupy

or use all premises being furnished electric service pursuant to his membership, or (b) except when the Board specifically waives such condition, abandoning totally and permanently the use of central station electric service on such premises.

SECTION 2.04. Termination by Death or Cessation of Existence; Continuation of Membership in Remaining or New Partners. The death of an individual natural person shall automatically terminate his non-joint membership. The cessation of the legal existence of any other type of member shall automatically terminate such membership; PROVIDED, upon the dissolution for any reason of a partnership, or upon the death, withdrawal or addition of any individual partner, such membership shall continue to be held by such remaining and/or new partner or partners as continue to own, or to lease as lessor or lessee, or directly to occupy or use the premises being furnished service pursuant to such membership in the same manner and to the same effect as though such membership had never been held by different partners; BUT PROVIDED FURTHER, neither a withdrawing partner nor his estate shall be released from any debts then due the Cooperative.

SECTION 2.05. Effect of Termination. Upon the termination in any manner of a person's membership, he or his estate, as the case may be, shall be entitled to refund of his membership fee (and to his service security deposit, if any, theretofore paid the Cooperative), less any amounts due the Cooperative; but neither he nor his estate, as the case may be, shall be released from any debts or other obligations then remaining due the Cooperative. Notwithstanding the suspension or expulsion of a member, as provided for in Sections 2.01 and 2.02, such shall not, unless the Board shall expressly so resolve, constitute a release of such person from his membership obligations so as to entitle him to purchase from any other person any central station electric power and energy for use at the premises to which such service has theretofore been furnished by the Cooperative pursuant to his membership.

SECTION 2.06. Effect of Death, Legal Separation or Divorce upon a Joint Membership. Upon the death of either of the spouses of a joint membership or their legal separation or divorce, such membership shall continue to be held solely by the Survivor, or by the separated or divorced one, whichever be the case, who continues directly to occupy or use the premises covered by such membership, if such be the case, in the same manner and to the same effect as though such membership had never been joint; PROVIDED, the estate of the deceased spouse or of the other separated or divorced spouse shall not be released from any debts due the Cooperative.

SECTION 2.07. Board Acknowledgment of Membership Termination; Acceptance of Members

Retroactively. Upon the termination of a person's membership for any reason, the Board, so soon as practicable after such termination is made known to it, shall by appropriate resolution formally acknowledge such termination, effective as of the date on which the Cooperative ceased furnishing electric service to such person. Upon discovery that the Cooperative has been furnishing electric service to any person other than a member, it shall cease furnishing such service unless such person applies for, and the Cooperative approves, membership retroactively to the date on which such person first began receiving such service, in which event the Cooperative, to the extent practicable, shall correct its membership and all related records accordingly.

ARTICLE III MEETINGS OF MEMBERS

SECTION 3.01. Annual Meetings. For the purpose of electing Trustees, hearing and passing upon reports covering the previous fiscal year, electing Trustees and transacting such other business as may properly come before the meeting, an annual meeting of the members shall be held in October of each year, at such place in one of the counties in which the Cooperative serves, and beginning at such hour, as the Board shall from year to year fix; PROVIDED, for cause sufficient to it, the Board may fix a different date not more than thirty (30) days prior or subsequent to October. It shall be the responsibility of the Board to make adequate plans and preparations for, and to encourage member attendance at, the annual member meeting and any special member meeting. Failure to hold the annual meeting at the designated time and place shall not work a forfeiture or dissolution of the Cooperative.

SECTION 3.02. Special Meetings. A special meeting of the members may be called by resolution of the Board, upon written request by any three Trustees, by the Chairman or by petition signed by not less than ten (10%) percent of the then-total members of the Cooperative, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as provided in Section 3.03. The meeting shall be held at such place in one of the counties in which the Cooperative serves, on such date, but not sooner than sixty (60) days after the call for such meeting is filed if by a member petition, and beginning at such hour as shall be designated by him or those calling the same.

SECTION 3.03. Notice of Member Meetings. Written or printed notice of the place, day and hour of the meeting and, in the case of a special meeting or of an annual meeting at which business requiring special notice is to be transacted, the purpose or purposes of the meeting shall be delivered to each member not less than ten (10)

days nor more than twenty-five (25) days before the date of the meeting, either personally or by mail, by or at the direction of the Secretary. Any such notice delivered by mail may be included with member service billings or as an integral part of or with the Cooperative's monthly insert in "Living in South Carolina" or any successor publication. No matter the carrying of which, as provided by law or by the Cooperative's Articles of Incorporation or Bylaws, requires the affirmative votes of more than simple majority of the members voting thereon at any meeting of the members shall be acted upon at such a meeting unless notice of the matter shall have accompanied or been contained in the notice of the meeting, except as provided in subsection (b) of Section 11.01 of Article XI of these Bylaws. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as appears on the Cooperative's records, with postage thereon prepaid and postmarked at least ten (10) days prior to the meeting date. In making such computation, the date of the meeting shall not be counted. The incidental and non-intended failure of any member to receive a notice shall not invalidate any action which may be taken by the members at the meeting and the attendance in person of a member at any such meeting shall constitute a waiver of notice thereof unless it shall be for the express purpose of objecting to the transaction of any business, or one or more items of business, on the ground that the meeting shall not have been lawfully called or convened or other lawful ground; but such objection shall be in writing and delivered to the Secretary prior to or at the beginning of the meeting.

SECTION 3.04. Quorum. (a) Except as otherwise provided in this Section 3.04, business may be transacted at any meeting of the members if there are present in person at least five (5%) percent of the then-total members of the Cooperative.

(b) The members may not vote on a question of removing a Trustee from office or to fill any vacancy that may thereby be created, or on a proposal to sell, lease as lessor, lease-sell, transfer, convey, exchange or otherwise dispose of all, or substantially all, of the Cooperative's properties and assets, or to dissolve the Cooperative, unless there are present in person at least ten (10%) percent of the then-total members of the Cooperative; PROVIDED, subsection (a), not this subsection (b), shall apply if the question is whether to merge or consolidate the Cooperative with one or more other electric cooperatives.

(c) If less than the required quorum is present at any meeting, a majority of those present in person may adjourn the meeting to another time and date.

(d) At all meetings of the members, whether a quorum be present or not, the Secretary shall annex to the meeting minutes, or incorporate therein by reference,

a list of those members who were registered as present in person. Such records, together with all written ballots cast on any matter at the meeting, shall be impounded and retained by the Cooperative for a reasonable time, not less than three (3) months, after the adjournment of the meeting.

SECTION 3.05. Voting. Each member who is not in a status of suspension, as provided for in Section 2.01, shall be entitled to only one vote upon each matter submitted to a vote at any meeting of the members. Voting by members other than members who are natural persons shall be allowed upon the presentation to the Cooperative, prior to or upon registration at the member meeting, of satisfactory evidence entitling the person presenting the same so to vote. All matters shall be decided by a majority of the members voting thereon, except as otherwise provided by law or by the Cooperative's Articles of Incorporation or these Bylaws. Members may not cumulate their votes or vote by proxy or by mail.

SECTION 3.06 Credentials and Election Committee. (a) The Board shall, at least sixty (60) days before any meeting of the members, appoint a Credentials and Election Committee. The Committee shall consist of an uneven number of Cooperative members, not less than five (5) nor more than eleven (11), who are not members of the Nominating Committee and who are not existing Cooperative employees, agents, officers, trustees or known candidates for trustee, and who are not close relatives or members of the same household of any such person. In appointing the Committee, the Board shall have regard for the equitable representation of the several areas served by the Cooperative. The Committee shall elect its own chairman and secretary, the latter of whom may be a member of the Cooperative's staff, at its first meeting.

(b) It shall be the responsibility of the Committee to establish or approve the manner of conducting member registration and to rule upon all questions that may arise with respect thereto; to count and announce the results of any votes cast on any matter except as provided in subsection (d) of this Section 3.06; and to rule upon the validity of petitions of nomination and the eligibility of candidates nominated by petition.

(c) The Committee shall also, except as provided in subsection (d), rule upon any protest or objection that is filed with respect to any aspect of the meeting; but in the event a member has a protest or objection concerning any election or other voting, such protest or objection must be filed in writing with the Committee during, or within ten (10) business days next following the adjournment of the meeting in which the voting is conducted. The Committee shall thereupon be reconvened, upon notice from its chairman, not less than fourteen (14) days after such protest or objection is filed. The Committee shall hear such evidence as

is presented by the protester(s) or objector(s), who may be heard in person, by counsel, or both, and any opposing evidence; and the Committee, by a vote of a majority of those present and voting, shall, within a reasonable time, but not later than thirty (30) days after such hearing, render its decision, the result of which may be to affirm the election or other voting, to change the outcome thereof, or to set it aside. The Committee may not affirmatively act on any matter unless a majority of the Committee is present. In the exercise of its responsibility, the Committee shall have available to it the advice of the Cooperative's legal counsel. The Committee's decisions (as reflected by a majority of those actually present and voting) shall be final, except as may thereafter be changed by a court having jurisdiction for such purpose.

(d) The Committee shall have no responsibility or authority with respect to any balloting, the conduct, supervision, counting and announcement of the results of which have by the Board been delegated to any other person(s).

SECTION 3.07. Order of Business. The order of business at the annual meeting of the members, and, insofar as practicable or desirable, at all other meetings of the members shall be essentially as follows:

- (1) Registration and casting of ballots for the election of Trustees;
- (2) Report on the number of members registered in person in order to determine the existence of a quorum;
- (3) Reading of the notice of the meeting and proof of the due giving thereof, or of the waiver or waivers of notice of the meeting, as the case may be;
- (4) Reading of unapproved minutes of previous meetings of the members and the taking of any appropriate action thereon;
- (5) Presentation and consideration of reports of officers, Trustees and committees;
- (6) Unfinished business;
- (7) New business; and
- (8) Adjournment.

Notwithstanding the foregoing, the Board may for any such meeting, establish a different order of business for the purpose of assuring the earlier consideration of and action upon any item of business the transaction of which is necessary or desirable in advance of any other item of business; PROVIDED, no business other than adjournment of the meeting to another time and place may be transacted until and unless the existence of a quorum is first established.

**ARTICLE IV
TRUSTEES**

SECTION 4.01 Number and General Powers. The business and affairs of the Cooperative shall be managed by a Board of nine (9) Trustees. The Board shall exercise all of the powers of the Cooperative except such as are by law or by the Cooperative's Articles of Incorporation or Bylaws conferred upon or reserved to the members.

SECTION 4.02. Qualifications. No person shall be eligible to become or remain a Trustee of the Cooperative who:

(a) while serving on the Board or during the five (5) years preceding his nomination thereto shall have been finally adjudged to be guilty of a felony; or

(b) becomes, or at any time during the preceding five (5) years shall have been, employed by (or be a close relative of a person who becomes, or at any time within the preceding five (5) years shall have been employed by) a labor union which represents, or has represented, or has endeavored to represent any employees of the Cooperative; or

(c) is, and if elected and seated as a Trustee will continue to be, a close relative of an incumbent trustee or of an employee of the Cooperative; PROVIDED, this restriction shall not apply to any Trustee who was such a close relative prior to, and who was an incumbent Trustee on the date of, the 1990 annual meeting of the members; or

(d) has not continuously been, for at least one (1) year prior to his nomination, or who ceases after his election to be, a member in good standing of the Cooperative, receiving service therefrom at his primary residential abode in the Trustee District from which he is elected, (except as provided in the first proviso in this Section, in which instance the member which qualifies a person's eligibility to be elected a Trustee must be and remain in good standing);

(e) is employed by the Cooperative or was employed by the Cooperative at any time during the preceding seven (7) years; or

(f) does not have the legal capacity to enter into a binding contract.

No person shall be eligible to become or remain a Trustee of, or to hold any other position of trust in, the Cooperative who is not at least eighteen (18) years old or is in any way employed by or financially interested in a substantially competing enterprise, or a business selling electric energy or supplies to the Cooperative, or a business engaged substantially in selling electrical apparatuses to the members of the Cooperative.

Notwithstanding the restrictive provisions of this Section based upon close relative relationships, no in-

current Trustee shall lose eligibility to remain a Trustee or to be re-elected a Trustee if, during his incumbency, he became a close relative of another incumbent Trustee or of a Cooperative employee because of a marriage or an adoption to which he was not a party.

Upon establishment of the fact that a nominee for Trustee lacks eligibility under this Section or as may be provided elsewhere in these Bylaws, it shall be the duty of the Board to disqualify him. Upon the establishment of the fact that any person being considered for, or already holding, a Trusteeship or other position of trust in the Cooperative lacks eligibility under this Section, it shall be the duty of the Board to withhold such position from such person, or to cause him to be removed therefrom, as the case may be. Also, the office of a Trustee shall automatically become vacant if he misses as many as three (3) regular meetings of the Board during any twelve (12) consecutive such meetings, unless the remaining Trustees unanimously resolve that (1) there was good cause for such absences and (2) such cause will not likely result in such absences during the next ensuing twelve (12) consecutive regular Board meetings. Nothing contained in this Section shall, or shall be construed to, affect in any manner whatsoever the validity of any action taken at any meeting of the Board unless such action is taken with respect to a matter which is affected by the provisions of this Section and in which one or more of the Trustees have a personal interest in conflict with that of the Cooperative.

SECTION 4.03. Election. At each annual meeting of the members, Trustees shall be elected by secret written or electronically registered ballot by the members, and, except as provided in the first proviso of Section 4.02 of these Bylaws, from among natural persons who are members; PROVIDED, if only one person shall have been nominated for a particular Trustee District, such nominee shall automatically be declared elected at the member meeting at which such Trusteeship would otherwise have been voted upon. Whenever there are two or more candidates for the same Trusteeship, the one receiving the highest number of votes shall win. Drawing by lot shall resolve, where necessary, any tie votes.

SECTION 4.04. Tenure. Trustees shall be so nominated and elected that one Trustee for each of Trustee Districts Nos. 1, 4 and 7 shall be elected for a three-year term at an annual member meeting; one Trustee for each of Trustee Districts Nos. 3, 6 and 9 shall be elected for a three-year term at the next succeeding annual member meeting; and one Trustee for each of Trustee Districts Nos. 2, 5 and 8 shall be elected for a three-year term at the next succeeding annual member meeting; and so forth. Upon their election, Trustees shall, subject to the provisions of these Bylaws with respect to the removal of Trustees, serve until the annual meeting of the members of the year in which their terms expire or until their successors shall have been elected and shall have

qualified. If for any reason an election of Trustees shall not be held at an annual meeting of the members duly fixed and called pursuant to these Bylaws, such election may be held at an adjournment of such meeting or at a subsequently held special, or the next annual, meeting of the members. Failure of an election for a given year shall allow an incumbent whose Trusteeship would have been voted upon to hold over only until the next member meeting at which a quorum is present and until his successor shall have been elected and shall have qualified.

SECTION 4.05. Trustee Districts. The territory served by the Cooperative shall be divided into nine (9) Trustee Districts. Each District shall be represented by one Trustee. Beginning with the election or appointment of Trustees after the 1990 annual meeting of the members, the Trustee Districts shall be as revised and adopted by the Board at its regular meeting in September 1990. A map prepared by Southern Engineering Company, dated February 5, 1985, and showing the geographic areas served by the Cooperative, the locations of its electric lines and the boundaries of each of the Trustee Districts, is on file in each of the Cooperative's business offices and is available for inspection by any member upon request during the Cooperative's normal business hours. The descriptions of the Trustee Districts as so shown are incorporated into this Section 4.05 by reference.

Every even numbered year, the Board, not less than one hundred twenty (120) days prior to the first date on which the annual member meeting may be scheduled pursuant to these Bylaws to be held, shall review the Trustee Districts. If the Board determines that the boundaries of Districts should be altered so as to correct any substantially inequitable factors, such as but not limited to the numbers of members, communities of interest, operating areas or natural or man-made landmarks, it shall alter such boundaries and shall timely notice the members that such alterations have been made and that the above identified map has been revised accordingly and is available for inspection by any member so requesting. From and after such notice, this Section 4.05 shall have been effectively amended accordingly, except that such boundaries may also be altered by amendment of these Bylaws by the members from time to time: PROVIDED, any change so made by action of the Board shall be in full force and effect until at least the completion of the election of Trustees at the annual meeting of the members first thereafter held; AND PROVIDED FURTHER, no such amendment by the Board shall become effective so as to cause the vacancy of any Trustee's office prior to the time his term would normally expire unless such Trustee consents thereto in writing.

SECTION 4.06. Nominations. It shall be the duty of the Board to appoint, not less than one hundred twenty (120) nor more than one hundred fifty (150) days prior to the date of a meeting of the members at which Trustees are to be elected, a Nominating Committee, consisting of

nine (9) members of the Cooperative who are not existing Cooperative employees, agents, officers, Trustees or known candidates for Trustees, who are not close relatives or members of the same household of any such person, and who are so selected that each of the Cooperative's Trustee Districts shall have one representative thereon. The Committee shall prepare and post at all offices of the Cooperative at least ninety (90) days before the meeting a list of nominations for Trustees to be elected, listing separately the nominee(s) for each Trusteeship and Trustee District for which a Trustee must, pursuant to this Article, be elected at the meeting. The Committee may include as many nominees for any Trustee to be elected for a Trustee District as it deems desirable, but it shall not make a nomination until it shall have first determined that the nominee is qualified to serve as a Trustee in accordance with the provisions of Section 4.02 and, if elected, will serve. Any fifty (50) or more members of the Cooperative, acting together, may make additional nominations in writing over their signatures, listing their nominee(s) in like manner and filing the same with the Cooperative not less than sixty (60) days prior to the meeting and the Secretary shall post such nominations at the same place where the list of nominations made by the Committee is posted. The Secretary shall mail to the members with the notice of the meeting, or separately, but at least ten (10) days prior to the date of the meeting, a statement of the names and addresses of all nominee(s) for each Trustee District for which a Trustee must be elected, distinguishing clearly those nominated by the Committee and those nominated by petition, if any. Additional nominations from the floor shall not be allowed.

For purposes of these bylaws, any requirement that certain acts occur sixty (60) days prior to the annual meeting date, sixty (60) days is defined as full calendar days, not including the day of the meeting. For example, if a sixty (60) day count is September 13, then the deadline is at the close of business the previous day, on September 12. If the sixty (60) day count is a Saturday, Sunday, or Holiday, then it would be the business day prior to that.

SECTION 4.07. Voting for Trustees; Validity of Board Action. In the election of Trustees, each member shall be entitled to vote for one (1) nominee for each Trusteeship to be elected. Ballots marked in violation of the foregoing restriction with respect to one or more Trustee Districts shall be invalid and shall not be counted with respect to such District(s). Notwithstanding the provisions contained in this Section, failure to comply with any of them shall not affect in any manner whatsoever the validity of any action taken by the Board after the election of Trustees.

SECTION 4.08. Removal of Trustees by Members. Any member may bring one or more charges for cause against any one or more Trustees and may request the removal of such Trustee(s) by reason thereof by filing with the Secretary such charge(s) in writing together with a

petition signed by not less than ten (10%) percent of the then-total members of the Cooperative, which petition calls for a special member meeting the stated purpose of which shall be to hear and act upon such charge(s) and, if one or more Trustees are recalled, to elect their successor(s), and which specifies the place, time and date thereof, not sooner than sixty (60) days after the filing of such petition, or requests that the matter be acted upon at the subsequent annual member meeting if such meeting will be held not sooner than sixty (60) days after the filing of such petition. Each page of the petition shall, in the forepart thereof, state the name(s) and address(es) of the member(s) filing such charge(s), a verbatim statement of such charge(s) and the name(s) of the Trustee(s) against whom such charge(s) is (are) being made. The petition shall be signed by each member in the same name as he is billed by the Cooperative and shall state the signatory's address as the same appears on such billings. Notice of such charge(s) verbatim, of the Trustee(s) against whom the charge(s) have been made, of the member(s) filing the charge(s) and the purpose of the meeting shall be contained in the notice of the meeting, or separately noticed to the members, not less than ten (10) days prior to the member meeting at which the matter will be acted upon; PROVIDED, the notice shall set forth (in alphabetical order) only twenty (20) of the names of the members filing one or more charges if more than twenty (20) members file the same charge(s) against the same Trustee(s). Such Trustee(s) shall be informed in writing of the charge(s) after the petition has been validated and at least twenty (20) days prior to the meeting at which the charge(s) are to be considered, shall have an opportunity at the meeting to be heard in person, by witnesses, by counsel or any combination of such, and to present other evidence in respect of the charge(s), and shall be heard last; and the person(s) bringing the charge(s) shall have the same opportunity, and shall be heard first. The question of the removal of such Trustee(s) shall, separately for each if more than one has been charged, be considered and voted upon at such meeting, and any vacancy created by such removal shall be filled by vote of the members at such meeting without compliance, with the foregoing provisions with respect to nominations; PROVIDED, the question of the removal of a Trustee shall not be voted upon at all unless some evidence in support of the charge(s) against him shall have been presented to the meeting. A newly elected Trustee shall be from the same Trustee District as was the Trustee whose office he succeeds and shall serve the unexpired portion of the removed Trustee's term.

SECTION 4.99. Vacancies. Subject to the provisions of these Bylaws with respect to the filling of vacancies caused by the removal of Trustees by the members, a vacancy occurring in the Board shall be filled by the Board. A Trustee thus elected shall serve out the unexpired term of the Trustee whose office was originally vacated and until a successor is elected and qualified; PROVIDED,

such a Trustee shall be from the same Trustee District as was the Trustee whose office was vacated.

SECTION 4.10. Compensation; Expenses. Trustees shall, as determined by resolution of the Board, receive, on a per diem basis, a fixed fee, which may include insurance benefits, for attending meetings of the Board, and when such is approved by the Board, for the performance of their duties otherwise. Trustees shall also receive advancement or reimbursement of any travel and out-of-pocket expenses actually, necessarily and reasonably incurred in performing their duties. Except as may already be the case with respect to one or more permanent employees on October 13, 1990, no close relative of a Trustee shall be employed by the Cooperative and no Trustee shall receive compensation for serving the Cooperative in any other capacity, unless the employment of such relative or the service of such Trustee is temporary; PROVIDED, a Trustee who is also an officer of the Board and who as such officer performs regular or periodic duties of a substantial nature for the Cooperative in its fiscal affairs may be compensated in such amounts as shall be fixed and authorized in advance of such service by the Board; AND PROVIDED FURTHER, an employee shall not lose eligibility to continue in the employment of the Cooperative if he becomes a close relative of a Trustee because of a marriage or adoption to which he was not a party.

SECTION 4.11. Committees. The Board may designate from among its members an executive committee and other committees, and delegate to such committee or committees so much of the authority of the Board as it deems advisable and is permitted by law.

SECTION 4.12. Rules, Regulations, Rate Schedules and Contracts. The Board shall have power to make, adopt, amend, abolish and promulgate such rules, regulations, rate classifications, rate schedules, contracts, security deposits and any other types of deposits, payments or charges, including contributions in aid of construction, not inconsistent with law or the Cooperative's Articles of Incorporation or Bylaws, as it may deem advisable for the management, administration, and regulation of the business and affairs of the Cooperative.

SECTION 4.13. Accounting System and Reports. The Board shall cause to be established and maintained a complete accounting system of the Cooperative's financial operations and condition, and shall, after the close of each fiscal year, cause to be made a full, complete and independent audit of the Cooperative's accounts, books, and records reflecting the Cooperative's financial operations during, and its financial condition as of the end of, such year. A summary of such financial operations and condition shall be submitted to the members at or prior to the succeeding annual meeting of the members. The

Board may authorize special audits, complete or partial, at any time and for any specified period of time.

SECTION 4.14. Subscription to "Living in South Carolina." For the purpose of disseminating information devoted to the economical, effective and conservative use of electric energy, the Board shall be empowered, on behalf of and for circulation to the members periodically, to subscribe to "Living in South Carolina," or any successor publication, including, if the Board, so elects, a cooperative "newsletter" insert therein covering local activities and operations of the Cooperative. The annual subscription price for such publication shall be not more than \$4.00, which shall be deducted from any funds accruing in favor of such members, so as to reduce such funds in the same manner as would any other expense of the Cooperative.

SECTION 4.15. Trustees Empowered to Promote Economic Development. The Board is empowered to promote economic development of the general areas in or near to which the Cooperative serves. Such promotion may include, but shall not be limited to, (a) membership in or ownership of securities issued by other organizations engaged in such promotion, (b) expanding, investment, lending or underwriting reasonable amounts of funds, and (c) acquisition, through purchase, lease, option or otherwise, of land and other properties for resale, lease or sublease to institutional, commercial and industrial enterprises or other entities.

ARTICLE V

MEETINGS OF TRUSTEES

SECTION 5.01. Regular Meetings. A regular meeting of the Board shall be held, without notice, immediately after the adjournment of the annual meeting of the members, or as soon thereafter as conveniently may be, at such site as designated by the Board in advance of the annual member meeting. A regular meeting of the Board shall also be held monthly at such date, time and place in Berkeley County, South Carolina, as the Board may provide by resolution; PROVIDED, the Board may from time to time resolve to hold a regular meeting at some place in some other county in which the Cooperative serves. Except when business to be transacted thereat shall require special notice, such regular monthly meeting may be held without notice other than such resolution; PROVIDED, any Trustee absent from any meeting of the Board at which such a resolution initially determines or makes any change in the date, time or place of a regular meeting shall be entitled to receive written notice of such determination or change at least five (5) days prior to the next regular meeting of the Board; AND PROVIDED FURTHER, if a policy therefor is established by the Board, the Chairman may change the date, time or place of a

regular monthly meeting for good cause and upon not less than five (5) days' notice thereof to all Trustees.

SECTION 5.02. Special Meetings. A special meeting of the Board may be called by the Board, by the Chairman or by any four (4) Trustees, and it shall thereupon be the duty of the Secretary to cause notice of such meeting to be given as provided in Section 5.04. The Board, the Chairman, or the Trustees calling the meeting shall fix the date, time and place for the meeting, which shall be held in one of the counties in South Carolina within which the Cooperative serves, unless all Trustees consent to its being held in some other place in South Carolina or elsewhere. Special meetings, upon proper notice as otherwise provided in Section 5.04, may also be held via telephone conference call, without regard to the actual location of the Trustees at the time of such a telephone conference meeting, if all the Trustees consent thereto.

SECTION 5.03. Attendance at Board Meetings by Telephone or Other Telecommunications Device. If no other Trustee objects, a Trustee may attend and participate in a Board meeting by being continuously connected thereto by telephone or other telecommunications device in such a manner that he may speak to and be heard by such meeting and all other Trustees there present may hear and speak to him.

SECTION 5.04. Notice of Trustees Meetings. Written notice of the date, time, place (or telephone conference call) and purpose or purposes of any special meeting of the Board and, when the business to be transacted thereat shall require such, of any regular meeting of the Board shall be delivered to each Trustee not less than five; (5) days prior thereto, either personally or by mail, by or at the direction of the Secretary or, upon a default in this duty by the Secretary, by him or those calling it in the case of a special meeting or by any Trustee in the case of a meeting whose date, time and place have already been fixed by Board resolution. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Trustee at his address as it appears on the Cooperative's records with first class postage thereon prepaid, and postmarked at least five (5) days prior to the meeting date. The attendance of a Trustee at any meeting of the Board shall constitute waiver of notice of such meeting unless such attendance shall be for the express purpose of objecting in writing to the transaction of any business, or of one or more items of business, on the ground that the meeting shall not have been lawfully called or convened, or on some other lawful ground.

SECTION 5.05. Quorum. The presence in person of a majority of the Trustees in office shall be required for the transaction of business and the affirmative votes of a majority of the Trustees present and voting shall be required for any action to be taken; PROVIDED, a Trustee

who by law or these Bylaws is disqualified from voting on a particular matter shall not, with respect to consideration of that matter, be counted in determining the number of Trustees in office or present; AND PROVIDED FURTHER, if less than a quorum be present at a meeting, a majority of the Trustees present may adjourn the meeting from time to time, but shall cause all Trustees to be duly and timely notified of the date, time and place of such adjourned meeting.

ARTICLE VI

OFFICERS; MISCELLANEOUS

Section 6.01. Number and Title. The officers of the Cooperative shall be a Chairman, Vice Chairman, Secretary and Treasurer, and such other officers as may from time to time be determined by the Board. The offices of Secretary and Treasurer may be held by the same person.

SECTION 6.02. Election and Term of Office. The four officers named in Section 6.01 shall be elected by secret written ballot, annually and without prior nomination, by and from the Board at the first meeting of the Board held after the annual meeting of the members. Drawing by lots, when necessary, shall resolve tie votes. If the election of such officers shall not be held at such meeting, it shall be held as soon thereafter as conveniently may be. Each such officer shall hold office until the meeting of the Board first held after the next succeeding annual meeting of the members or until his successor shall have been duly elected and shall have qualified, subject to the provisions of the Bylaws with respect to the removal of Trustees and to the removal of officers by the Board. Any other officers may be elected by the Board from among such persons and with such title, tenure, responsibilities and authorities as the Board may from time to time deem advisable.

SECTION 6.03. Removal. Any officer, agent or employee elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Cooperative will thereby be served.

SECTION 6.04. Vacancies. A vacancy in any office elected or appointed by the Board shall be filled by the Board for the unexpired portion of the term.

SECTION 6.05. Chairman. The Chairman shall:

(a) be the principal executive officer of the Board and shall preside at all meetings of the Board, and, unless determined otherwise by the Board, at all meetings of the members;

(b) sign, with the Secretary, certificates of membership, the issue of which shall have been authorized by resolution of the Board, and may sign any deeds,

mortgages, deeds of trust, notes, bonds, contracts or other instruments authorized by the Board to be executed, except in cases in which the signing and execution thereof shall be expressly delegated by the Board or by these Bylaws to some other officer or agent of the Cooperative, or shall be required by law to be otherwise signed or executed; and

(c) in general, perform all duties incident to the office of Chairman and such other duties as may be prescribed by the Board from time to time.

Section 6.06. Vice Chairman. In the absence of the Chairman, or in the event of his inability or refusal to act, the Vice Chairman shall perform the duties of the Chairman, and, when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman; and shall perform such other duties as from time to time may be assigned to him by the Board.

SECTION 6.07. Secretary. The Secretary shall:

(a) keep, or cause to be kept, the minutes of meetings of the members and of the Board in one or more books provided for that purpose;

(b) see that all notices are duly given in accordance with these Bylaws or as required by law;

(c) be custodian of the corporate records and of the seal of the Cooperative and see that the seal of the Cooperative is affixed to certificates of membership, if any, prior to the issue thereof and to all documents the execution of which, on behalf of the Cooperative under its seal, is duly authorized in accordance with the provisions of these Bylaws or is required by law;

(d) keep, or cause to be kept, a register of the name and post office address of each member, which address shall be furnished to the Cooperative by such member;

(e) sign, with the Chairman, certificates of membership if their issue shall have been authorized by the Board;

(f) have general charge of the books of the Cooperative in which a record of the members is kept;

(g) keep on file at all times a complete copy of the Cooperative's Articles of Incorporation and Bylaws, together with all amendments thereto, which copies shall always be open to the inspection of any member, and, at the expense of the Cooperative, furnish a copy of such documents and of all amendments thereto upon request to any member; and

(h) in general, perform all duties incident to the office of the Secretary and such other duties as from time to time may be assigned to him by the Board.

SECTION 6.08. Treasurer. The Treasurer shall:

(a) have charge and custody of and be responsible for all funds and securities of the Cooperative;

(b) receive and give receipts for monies due and payable to the Cooperative from any source whatsoever, and deposit or invest all such monies in the name of the Cooperative in such bank or banks or in such financial institutions or securities as shall be selected in accordance with the provisions of these Bylaws; and

(c) in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the Board.

SECTION 6.09. Delegation of Secretary's and Treasurer's Responsibilities; Facsimile Signatures. Notwithstanding the responsibilities and authorities of the Secretary and of the Treasurer provided in Sections 6.07 and 6.08, the Board may, except as otherwise limited by law, delegate, wholly or in part, the responsibility and authority for, and the regular or routine administration of, one or more of each such officer's duties to one or more agents, other officers or employees of the Cooperative who are not Trustees; and to the extent the Board does so delegate with respect to any such officer, that officer as such shall be released from such duties, responsibilities and authorities. Any documents requiring the signature of any officer may be affixed with his facsimile signature unless his manuscript signature is required by law.

SECTION 6.10. President, Chief Executive Officer. The board shall appoint a President who may be, but shall not be required to be a member of the Cooperative, and who also may be designated Chief Executive Officer. Such officer shall perform such duties as the Board may from time to time require and shall have such authority as the Board may from time to time vest in him; and the Board shall set forth and maintain, and shall from time to time review and as appropriate revise, a written description of such duties and authorities.

SECTION 6.11. Bonds. The Board shall require the Treasurer and any other officer, agent or employee of the Cooperative charged with responsibility for the custody of any of its funds or property to give bond in such sum and with such surety as the Board shall determine. The Board in its discretion may also require any other officer, agent or employee of the Cooperative to give bond in such amount and with such surety as it shall determine. The costs of all such bonds shall be borne by the Cooperative.

SECTION 6.12. Compensation; Indemnification. The compensation, if any, of any officer, agent or employee who is also a Trustee or close relative of a Trustee shall be determined as provided in Section 4.10 of these Bylaws, and the powers, duties and compensation of any other officers, agents and employees shall be fixed or a plan therefor approved by the Board. The Cooperative shall indemnify and hold harmless its past and present

Trustees and officers, including the President and Chief Executive Officer—and may but shall not be obligated to so indemnify and hold harmless one or more of its past and present agents and other employees—against liability and related costs, including reasonable attorney's fees, because of any act or omission in connection with their relationship to the Cooperative in such capacities, to the maximum extent allowable by law, including, and supplementary and subject to, but not limited to, S.C. Code Ann. Section 33-49-890; and may purchase insurance to cover such indemnification.

SECTION 6.13. Reports. The officers of the Cooperative shall submit at each annual meeting of the members, reports covering the business of the Cooperative for the previous fiscal year and showing the condition of the Cooperative at the close of such fiscal year.

SECTION 6.14. "Close Relative" Defined. As used in these Bylaws, "close relative" means a person who, by blood or in law, including half, foster, step and adoptive kin, is either a spouse, child, grandchild, parent, grandparent, brother, sister, aunt, uncle, nephew or niece of the principal.

ARTICLE VII

CONTRACTS, CHECKS AND DEPOSITS

SECTION 7.01. Contracts. Except as otherwise provided by law or these Bylaws, the Board may authorize any Cooperative officer, agent or employee to enter into any contract or execute and deliver any instrument in the name and on behalf of the Cooperative, and such authority may be general or confined to specific instances.

SECTION 7.02. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, and all notes, bonds or other evidences of indebtedness, issued in the name of the Cooperative shall be signed or countersigned by such officer, agent or employee of the Cooperative and in such manner as shall from time to time be determined by resolution of the Board.

SECTION 7.03. Deposits; Investments. All funds of the Cooperative shall be deposited or invested from time to time to the credit of the Cooperative in such bank or banks or in such financial securities or institutions as the Board may select.

ARTICLE VIII

MEMBERSHIP CERTIFICATES

SECTION 8.01. Certificate of Membership. Membership in the Cooperative may, if the Board so resolves, be evidenced by a certificate of membership, which shall be

in such form and shall contain such provisions as shall be determined by the Board not contrary to, or inconsistent with, the Cooperative's Articles of Incorporation or its Bylaws. Such certificate shall be signed by the Chairman and Secretary, and the Cooperative seal shall be affixed thereto.

SECTION 8.02. Issue of Membership Certificates. No certificate shall be issued for less than the membership fee fixed by the Board nor until such fee and other payments, if any, shall have been fully paid.

SECTION 8.03. Lost Certificate. In case of a lost, destroyed or mutilated certificate, a new one may be issued therefor upon such terms and indemnity to the Cooperative as the Board may prescribe.

ARTICLE IX

NON-PROFIT OPERATION

SECTION 9.01. Interest or Dividends on Capital Prohibited. The Cooperative shall at all times be operated on a cooperative, non-profit basis for the mutual benefit of its patrons. No interest or dividends shall be paid or payable by the Cooperative on any capital furnished by its patrons.

SECTION 9.02. Patronage Capital in Connection with Furnishing Electric Energy. In the furnishing of electric energy, the Cooperative's operations shall be so conducted that all patrons will, through their patronage, furnish capital for the Cooperative. In order to induce patronage and to assure that the Cooperative will operate on a nonprofit basis, the Cooperative is obligated to account on a patronage basis to all its patrons for all amounts received and receivable from the furnishing of electric power and energy in excess of operating costs and expenses properly chargeable against the furnishing of electric power and energy. All such amounts in excess of operating costs and expenses at the moment of receipt by the Cooperative are received with the understanding that they are furnished by the patrons as capital. The Cooperative is obligated to pay by credits to a capital account for each patron all such amounts in excess of operating costs and expenses. The books and records of the Cooperative shall be set up and kept in such a manner that at the end of each fiscal year the amount of capital, if any, so furnished by each patron is clearly reflected and credited in an appropriate record to the capital account of each patron, and the Cooperative shall with a reasonable time after the close of the fiscal year notify each patron of the amount of capital so credited to his account; PROVIDED, individual notices of such amounts furnished by each patron shall not be required if the Cooperative notifies all patrons of the aggregate amount of such excess and provides a clear explana-

tion of how each patron may compute and determine for himself the specific amount of capital so credited to him. All such amounts credited to the capital account of any patron shall have the same status as though they had been paid to the patron in cash in pursuance of a legal obligation to do so and the patron had then furnished the Cooperative corresponding amounts for capital.

All other amounts received by the Cooperative from its operations in excess of costs and expenses shall, insofar as permitted by law, be (a) used to offset any losses incurred during the current or any prior fiscal year and (b) to the extent not needed for that purpose, allocated to its patrons on a patronage basis, and any amount so allocated shall be included as a part of the capital credited to the accounts of patrons, as herein provided.

In the event of dissolution or liquidation of the Cooperative, after all outstanding indebtedness of the Cooperative shall have been paid, outstanding capital credits shall be retired without priority on a pro rata basis before any payments are made on account of property rights of members; PROVIDED, insofar as gains may at that time be realized from the sale of an appreciated asset, such gains shall be distributed to all persons who were patrons during the period the asset was owned by the Cooperative in proportions to the amount of business done by such patrons during that period, insofar as is practicable, as determined by the Board, before any payments are made on account of property rights of members. If, at any time prior to dissolution or liquidation, the Board shall determine that the financial condition of the Cooperative will not be impaired thereby, the capital then credited to patrons' accounts may be retired in full or in part. Notwithstanding any other provisions of these Bylaws, the Board shall determine the method of allocation, basis, priority and order of retirement, if any, for all amounts furnished as patronage capital. The Board shall also have the power to adopt rules providing for the separate retirement of that portion ("power supply or other service or supply portion") of capital credited to the accounts of patrons which corresponds to capital credited to the account of the Cooperative by an organization furnishing power supply or any other service or supply to the Cooperative. Such rules shall (a) establish a method for determining the portion of such capital credited to each patron or each applicable fiscal year, (b) provide for separate identification of the Cooperative's books of such portions of capital credited to the Cooperative's patrons, (c) provide for appropriate notifications to patrons with respect to such portions of capital credited to their accounts and (d) preclude a general retirement of such portions of capital credited to patrons for any fiscal year prior to the general retirement of other capital credited to patrons for the same year or of any capital credited to patrons for any prior fiscal year.

Capital credited to the accounts of each patron shall be assignable only on the books of the Cooperative pursuant to written instructions from the assignor and only to successors in interest or successors in occupancy

In all of a part of such patron's premises served by the Cooperative, unless the Board, acting under policies of general application, shall determine otherwise.

Notwithstanding any other provisions of these Bylaws, the Board shall at its discretion have the power at any time upon the death of any patron who was a natural person whether the patron's membership be individual or jointly with patron's spouse (or, if as so provided for the preceding paragraph, upon the death of an assignee of the capital credits of a patron, which assignee was a natural person), if the legal representatives of his estate shall request in writing that the capital so credited or assigned, as the case may be, be retired prior to the time such capital would otherwise be retired under the provisions of the Bylaws, to retire such capital immediately upon such terms and conditions as the Board, acting under policies of general application, and such legal representatives shall agree upon; PROVIDED, the financial condition of the Cooperative will not be impaired thereby.

The Cooperative, before retiring any capital credit any patron's account, shall deduct therefrom any amount owed and overdue by such patron to the Cooperative, together with interest thereon at a reasonable rate as from time to time established by the Board in effect when such amount became overdue, compounded annually.

The patrons of the Cooperative, by dealing with the Cooperative, acknowledge that the terms and provisions of the Articles of Incorporation and Bylaws shall constitute and be a contract between the Cooperative and each patron, and both the Cooperative and the patrons are bound by such contract, as fully as though each patron had individually signed a separate instrument containing such terms and provisions. The provisions of this Article of the Bylaws shall be called to the attention of each patron of the Cooperative by posting in a conspicuous place in the Cooperative's offices.

SECTION 9.03. Patronage Refunds in Connection with Furnishing Other Services. In the event the Cooperative should engage in the business of furnishing goods or services other than electric power and energy, all amounts received and receivable therefrom which are in excess of costs and expenses properly chargeable thereto shall, insofar as permitted by law, be prorated annually on a patronage basis and returned to those patrons from whom such amounts were obtained at such time, in such manner and in such order of priority as the Board shall determine. Any Corporation, Partnership, Limited Liability Partnership, Limited Liability Company or similar entity in which the Cooperative is a partner or shareholder is exempt from this section.

ARTICLE X

WAIVER OF NOTICE

Any member or Trustee may waive, in writing, any

notice of meetings required to be given by these Bylaws or any notice that may otherwise be legally required, either before or after such notice is required to be given.

ARTICLE XI

DISPOSITION AND PLEDGING OF PROPERTY; DISTRIBUTION OF SURPLUS ASSETS ON DISSOLUTION

SECTION 11.01. Disposition and Pledging of Property.

(a) Not inconsistently with S.C. Code Ann. 33-49-260 and 33-49-270 and subsection (b) hereof, the Cooperative may authorize the sale, lease, lease-sale, exchange, transfer or other disposition of all or substantially all of the Cooperative's properties and assets only upon the affirmative votes of two-thirds (2/3) of the then-total members of the Cooperative at a duly held meeting of the members. However, the Board shall have full power and authority (1) to borrow monies from any source and in such amounts as the Board may from time to time determine; (2) to mortgage or otherwise pledge or encumber any or all of the Cooperative's properties or assets as security therefor; and (3) to sell, exchange, transfer or otherwise dispose of merchandise and property no longer necessary or useful for the operation of the Cooperative.

(b) Supplementary to the first sentence of the foregoing subsection (a) and any other applicable provisions of law or these Bylaws, no sale, lease, lease-sale, exchange, transfer or other disposition of all or substantially all of the Cooperative's properties and assets ("transaction") shall be authorized except in conformity with the following:

(1) If the Board looks with favor upon any proposal for any such transaction, it shall first appoint three persons, each of whom is independent of the Cooperative and of the other two and is expert in electric utility property evaluations, and commission them, separately, to study, appraise and evaluate such assets and properties, including their going concern value and the values associated with the right of the members to participate in the ownership and control of the Cooperative. Such appraisers shall be instructed to, and shall, take into account any other factors they may deem relevant in determining the present market value of such assets and properties. Within not more than sixty (60) days after their appointment and commission, each appraiser shall render his highest determination of such present value. The Board shall not recommend and submit any proposal that within one (1) year theretofore or thereafter it shall have received for such a transaction—or, within

one (1) year thereafter, make an offer of such a transaction—for a consideration that is less than the highest such determination rendered by the appraisers; nor shall it, following the expiration of one (1) year thereafter, make such a recommendation or offer without, again, first complying with the foregoing appraisal requirements.

(2) If, after receiving such appraisals, the Board resolves to pursue the matter further, it shall, within sixty (60) days after adoption of such resolution, transmit the appraisals, together with any underlying data and information that may have accompanied them, to every other electric cooperative corporately sited and operating in South Carolina and invite it to submit competing or alternative proposals, including proposals to merge or consolidate with the Cooperative. Such appraisals shall also be accompanied by any proposal for such a transaction received by the Cooperative with one (1) year prior to the receipt of the last appraisal or received subsequent thereto but prior to the adoption of such resolution; PROVIDED, only the most recent proposal from any entity that has made two or more proposals need be so transmitted. Such other Cooperatives shall be given at least sixty (60) days within which to submit competing or alternative proposals, and they shall be notified in such, transmittal of the actual final date for such submissions.

(3) If, after such date, the Board so resolves, it shall recommend and submit to the members (1) a proposal for such transaction or (2) a proposal to merge or consolidate the Cooperative with one or more other electric cooperatives, but it shall accompany the proposal with verbatim copies of all competing or alternative proposals it has received, together with all of the appraisals and any underlying data and information that may have accompanied such appraisals. The Board shall submit such recommendation and information to the members not less than sixty (60) days before calling and noticing a special meeting of the members thereon or, if such be the case, the next annual member meeting, stating in detail each of any such proposals. The meeting shall be held not less nor more than twenty-five (25) days after the giving of notice thereof.

(4) Any three hundred (300) or more members of the Cooperative may, over their respective signatures and within not less than thirty (30) days prior to the date of such member meeting, petition the Cooperative to mail to all of the Cooperative's members any statement of opposition to the Board's recommendation and/or of their own recommendation that a competing or alternative proposal, which may be a proposition to merge or consolidate the Cooperative with one or more other

electric cooperatives, be accepted and approved by the members at such meeting, in which event the Board shall cause a printed copy of the petition, including the printing of the names of the member signatories thereof, together with a printed copy of the statement, to be transmitted to all of the cooperative's members via the United States mail not less than twenty-five (25) days prior to such member meeting, with the cost of such printing and mailing to be borne by the Cooperative. If so mailed, such petition and statement shall constitute sufficient notice of any such recommended competing or alternative proposal for the same to be considered and acted upon at such meeting, but not until and after the proposal recommended by the Board shall have first been considered and rejected by vote of the members.

(c) No offer of such a transaction, whether made to or by the Board, shall be valid or, if made and accepted, enforceable unless the total consideration to be paid or otherwise furnished therefor, to the extent that the same is in excess of the amounts necessary to discharge or to provide for the discharge of all of the Cooperative's debts, obligations and liabilities, shall be distributed to or, if such be the case, allocated and assigned to the patrons or former patrons of the Cooperative in the manner provided for in the Articles of Incorporation, Bylaws or applicable law.

(d) Neither subsection (a) nor (b) of this Section 11.01 shall apply to a Board-recommended legal merger or consolidation of the Cooperative with one or more other electric cooperatives, or to a sale, exchange or transfer if such is in the nature of a forced sale for the reason that the purchaser possesses and otherwise would exercise a legal right to acquire, damage, relocate, remove or destroy such property and assets by condemnation or otherwise without the Cooperative's consent. Subsection (b) shall not apply to a Board-recommended transaction if the substantive, although not technically legal, effect thereof is to merge or consolidate the Cooperative with one or more other electric cooperatives.

SECTION 11.02. Distribution of Surplus Assets on Dissolution. Upon the Cooperative's dissolution, any assets remaining after all debts, liabilities and obligations of the Cooperative has been satisfied and discharged, or provisions made therefor, shall, to the extent practicable as determined by the Board, not inconsistently with the provisions of S.C. Code Ann. Sections 33-49-1030 through 33-49-1070 and of the third paragraph of Section 9.02 of these Bylaws, be distributed without priority but on a patronage basis among all persons who are or have been members of the Cooperative at any time during the seven (7) years next preceding the date of the filing of the certificate of dissolution; PROVIDED, HOWEVER, if in the judgment of the Board the amount of the surplus is

too small to justify the expense of making such distribution, the Board may, in lieu thereof, donate, or provide for the donation of, the surplus to one or more nonprofit charitable or educational organizations that are exempt from Federal income taxation.

ARTICLE XII FISCAL YEAR

The Cooperative's fiscal year shall begin on the first day of the month of January of each year and end on the last day of the month of December following.

ARTICLE XIII RULES OF ORDER

Parliamentary procedure at all meetings of the Members, of the Board, of any committee provided for in these Bylaws and of any other committee of the members or Board which may from time to time be duly established shall be governed by the most recent edition of Robert's Rules of Order, except to the extent such procedure is otherwise determined by law or by the Cooperative's Articles of Incorporation or Bylaws. This Article shall be subordinate to any other provisions of these Bylaws pertaining to the votes required for action by members, Trustees or committees.

ARTICLE XIV SEAL

The corporate seal of the Cooperative shall be in the form of a circle and shall have inscribed thereon the name of the Cooperative and the words, "Corporate Seal, South Carolina."

ARTICLE XV AMENDMENTS

SECTION 15.01. Power to Amend. The Cooperative's Bylaws may be adopted, amended or repealed ("changed") by the members; PROVIDED, either the Board or the members may declare the repeal of any bylaw provision if, as established by law, such is illegal or has become a legal nullity.

SECTION 15.02. Procedure for Amending. A bylaw may be changed only if the change or an accurate summary explanation thereof is noticed to the members and is sponsored by the Board or by at least three hundred (300) members who over their signatures, at least sixty

(60) days prior to the date of the member meeting at which such change will be acted upon, file with the Cooperative a petition proposing such change and setting forth with particularity the wording thereof and the time that the change is to become effective; PROVIDED, if the Cooperative is presented with such a petition over the signatures of less than three hundred (300) members, and if the request sets forth with particularity the wording of the proposed change and the time that the change is to become effective, the Board may, but shall not be obligated to, waive the foregoing petition requirement and cause such proposed change to be noticed and acted upon; PROVIDED FURTHER, the Board shall not cause any proposed bylaw change to be noticed or acted upon, or permit any amendment to a proposed bylaw change to be acted upon, if it determines that such, if adopted, would be illegal or a legal nullity. No proposed bylaw change may be amended from the floor of the member meeting at which it is being considered.

SECTION 15.03. Filing Deadline Defined. For purposes of these bylaws, any requirement that certain acts occur sixty (60) days prior to the annual meeting date, sixty (60) days is defined as full calendar days, not including the day of the meeting. For example, if a sixty (60) day count is September 13, then the deadline is at the close of business the previous day, on September 12. If the sixty (60) day count is a Saturday, Sunday, or Holiday, then it would be the business day prior to that.

BERKELEY ELECTRIC COOPERATIVE, INC.
P.O. Box 1234
Moncks Corner, South Carolina

STATEMENT OF NONDISCRIMINATION

Berkeley Electric Cooperative, Inc. is the recipient of Federal financial assistance from the Rural Utilities Service, an agency of the U.S. Department of Agriculture, and is subject to the provisions of Title VI of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended, the Age Discrimination Act of 1975, as amended, and the rules and regulations of the U.S. Department of Agriculture which provide that no person in the United States on the basis of race, color, national origin, age or disability status shall be excluded from participation in, admission or access to, denied the benefits of, or otherwise be subjected to discrimination under any of this organization's programs or activities.

The person responsible for coordinating this organization's nondiscrimination compliance efforts is the Vice President of Administration. Any individual, or specific class of individuals, who feels that this organization has subjected them to discrimination may obtain further information about the statutes and regulations listed above from and/or file a written complaint with this organization; or the Secretary, U.S. Department of Agriculture, Washington, D.C. 20250; or the Administrator, Rural Utilities Service (RUS), Washington, D.C. 20250. Complaints must be filed within 180 days after the alleged discrimination. Confidentiality will be maintained to the extent possible.

BYLAWS

AND

ARTICLES OF INCORPORATION

As revised at the
66th Annual Meeting of Members

March 12, 2002
Dallas, Texas



National Rural Electric
Cooperative Association

A Technician Energy Cooperative 

691 Wilson Boulevard
Arlington, VA 22203-1669
(703) 947-6300
www.nreca.org

NRECA BYLAWS AND ARTICLES OF INCORPORATION

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**BYLAWS
NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION**
as revised at the 60th Annual Meeting
March 12, 2002
Dallas, Texas

**ARTICLE I
NAME**

The name of the Association is the National Rural Electric Cooperative Association.

**ARTICLE II
OBJECT**

The object of the National Rural Electric Cooperative Association (the "Association") is to engage in the compilation and dissemination of information with respect to rural electrification and the furnishing of other services to rural electric cooperatives and others in connection with the coordination, advancement and development of rural electrification in the United States of America, its territories and possessions, for the primary and mutual benefit of the members of the Association and their members, as ultimate consumers.

ARTICLE III MEMBERS

Section 1. Eligibility for Membership. Initial and continued eligibility for membership in the Association shall be limited to the following:

A. Voting Members. All voting members must be entities described in this section whose operations are consistent, as determined by the board of directors, with the objectives of the Association and the Seven Cooperative Principles as defined by the International Cooperative Alliance.

(1) Distribution members must be electric distribution cooperatives or nonprofit associations, nonprofit corporations, public utility districts, or government corporations or authorities located in a state, territory, possession or commonwealth of the United States and primarily engaged in furnishing electricity at retail to their consumers.

(2) Generation and Transmission members must be cooperatives or nonprofit associations, nonprofit corporations, or public utility districts located in a state, territory, possession or commonwealth of the United States, primarily engaged in the marketing, generation and/or transmission of wholesale bulk electricity for sale to others for the purpose of resale.

(3) Service members must be organizations not actually engaged in the marketing,

generation, transmission or distribution of electricity, but whose voting members consist of generation, transmission or distribution cooperatives, or associations, nonprofit corporations or public utility districts which are located in a state, territory, possession or commonwealth of the United States and are primarily engaged in such marketing, generation, transmission or distribution of electricity.

B. Nonvoting Members.

(1) *Affiliate Members.* The board may designate domestic entities not eligible as voting members as non-voting affiliate members if such entities have objectives consistent with the objectives of the Association.

(2) *Associate Members.* The chief executive officer may designate domestic entities not eligible as voting members as non-voting associate members if the chief executive officer finds such membership will contribute to the objectives of the Association.

(3) *International Members.* The board may designate the following non-domestic entities as international members if such entities have objectives consistent with the objectives of the Association:

a. Electric distribution cooperatives or nonprofit associations, nonprofit corporations, public utility districts,

and/or government corporations or authorities outside the United States primarily engaged in furnishing electricity at retail to their consumers; or

b. Cooperatives or nonprofit associations, nonprofit corporations, and/or public utility districts outside the United States primarily engaged in the marketing, generation and/or transmission of wholesale bulk electricity for sale to others for the purpose of resale; or

c. Organizations not actually engaged in the marketing, generation, transmission, or distribution of electricity, but whose members consist of generation, transmission, or distribution cooperatives described in a) or b); or

d. Associations, nonprofit corporations or public utility districts outside the United States primarily engaged in the marketing, generation, transmission or distribution of electricity.

C. Assignment of Membership Types. The board shall assign each member to its appropriate membership category, including reassignment to reflect changes in structure, operations or activities.

D. Membership Location.

(1) For Association purposes, a member is considered to be located in the jurisdiction where the member does business. A member doing business in more than one jurisdiction is considered to be located in the jurisdiction in which its principal office is located, except that, upon request of a member and with the approval of the regions affected, the board may allow a member to be located in a different jurisdiction.

(2) For Association purposes, an individual shall be considered to be located in a jurisdiction in the following order:

a. If the individual is a director or officer of an Association member, the individual shall be considered to be located in the same jurisdiction as the member for which the individual is a director or officer.

b. If the individual is an employee of an Association member, the individual shall be considered to be located in the same jurisdiction as the member by which the individual is employed.

c. If the individual is not a director or an employee of a member, the individual shall be considered to be located in the same jurisdiction as the Association member of which the individual is a member.

E. *Non-liability for Association Debt.* The property of the members of the Association shall be exempt from execution for the debts of the Association and no member shall be liable or responsible for any debts or liabilities of the Association.

Section 2. Membership Dues and Fees.

A. Membership Dues.

(1) *Distribution Members.* The annual dues for each distribution member shall be the sum of the dues paid in 1999 (base amount) plus an additional amount for each block of consumers served, which shall be computed by applying a per-consumer rate determined by the board as follows: 100% of the rate for the first block of 10,000 consumers, 50% of the rate for the next block of 40,000 consumers, and 33% of the rate for each consumer thereafter. The board shall set the base amount for new Distribution members.

(2) *Generation and Transmission Members.* The annual dues of each non-operating Generation and Transmission (G&T) member shall be \$1,000. The annual dues for each operating G&T member shall be the greater of (a) \$1,000 or (b) the total number of megawatt hours sold, excluding sales by one G&T member to another G&T member, multiplied by a rate determined by the board.

(3) *Service Members.* The annual dues of statewide members shall be \$1,070. The annual dues of all other service members shall be determined by the board.

(4) The board shall determine the annual dues of all other members.

(5) The rates used to calculate the membership dues of distribution members, G&T members, and any other amounts set by the board shall be determined by a two-thirds vote of the board.

(6) Data required in the application of the formulae established in this section shall be obtained from the latest annual statistical report published by the Rural Utilities Service (RUS Information Publication 201-1). In the event that appropriate data are not included in such publication, the board shall use such other data based on the same time period as may be filed with or published by other government agencies or financing institutions, or, when necessary, information shall be solicited directly from a member system, which it shall be the obligation of the member to provide.

(7) If, by a two-thirds vote, the board determines that the appropriate dues formula cannot be fully applied to a member, or that application of the appropriate dues formula results in an inequity to a member, then the board may set the annual dues of such member.

(8) In addition to the annual dues for Distribution members and G&T members, each such member shall pay annually for one year's subscription to *RURAL ELECTRIC MAGAZINE* for each manager, director, officer, attorney, and key staff, at an annual subscription rate determined by the board, except that no duplicate subscription shall be required for any individual.

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B. *Membership Fees.* The board shall determine the initial membership fee, if any, for all membership categories.

C. *Calculation of Dues and Fees.* The methods of calculating the dues of distribution members, of G&T members, and the amount of dues of statewide members shall be changed only by amendment of these bylaws.

D. *Use of Dues.* Membership resolutions shall be assigned a projected dollar cost which shall guide the budgeting and expenditure of membership dues. The Association's core programs that benefit the majority of the membership shall be funded primarily from membership dues, as determined in the discretion of the board. To the extent feasible and practical, the expenditure of dues for providing core programs to each class of voting member shall be proportional to the dues paid by the class. To the extent feasible and practical, all other programs and services shall be funded by the charging of fees for the provision of the program and service. Dues and fees shall be set at an amount to cover all costs plus reasonable reserve levels.

Section 3. Admission to Membership.

A. *Applications.* Applications for membership shall be submitted to the secretary-treasurer for consideration by the board, except that applications for Associate membership shall be submitted to the chief executive officer. All applications shall include a statement agreeing to be bound by the Association's articles of incorporation, bylaws, and other rules of the Association.

B. All applications for membership other than associate membership shall be presented by the secretary-treasurer to the board for approval, which, in its sole

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discretion, shall approve or deny such membership. Such memberships shall become effective upon approval of such application by the board and payment of any initial membership fee, the first year's annual dues, and any other charges.

C. Applications for associate membership shall be presented to and subject to the approval of the chief executive officer, and shall become effective following payment of any fees and the first year's annual dues.

Section 4. Membership Transfer, Resignation, Termination, and Expulsion.

A. *Transfer.* Membership in the Association and certificates representing such membership shall not be transferable, except that, in case of a merger or consolidation of a member with another corporation, membership may be vested in the successor corporation, provided that successor is eligible to membership.

B. *Resignation.* Any member may voluntarily resign its membership in the Association by giving at least six months' written notice. Any member that has not paid annual dues 90 days from the date due shall be considered to have resigned, provided that a notice of delinquency and the resulting consequences is sent to such member at least 30 days prior to the expiration of the delinquency period.

C. *Termination.* In the event a member no longer meets the criteria for membership as defined in Article I, the board of directors may vote to terminate such membership provided the following conditions are met:

- (1) Notice of such action must be sent to the board of directors with the call of the meeting.
- (2) Notice must be sent to the member affected by such action in accordance with the requirements for notice to the board of directors.
- (3) A representative designated by the member must be given the opportunity to speak on the member's behalf.
- (4) A two-thirds vote of those present and voting shall be required for such membership termination. Such decision of the board shall be final and conclusive.

D. *Expulsion.* Any member may be expelled, provided that the following conditions are met:

- (1) The president shall appoint a committee of the board of directors to establish the facts of the case and make recommendations to the board.
- (2) A two-thirds vote of the board of directors present and voting shall be required to recommend expulsion of a member. Official notification of the intention to expel shall be sent to such member at least ten days prior to the board of directors' meeting at which the expulsion is an item of business.
- (3) Expulsion may only take place by a majority vote of the members voting at a regular or

special meeting. Official notification of the intention to expel shall be sent to such member at least ten days prior to the members' meeting at which the expulsion is an item of business. A member whose expulsion has been recommended by the board shall have the right to be heard in person or by counsel. The decision of the membership shall be final and conclusive.

E. *Effect of Termination of Membership.* Termination of membership in any manner (including resignation, expulsion, or any other termination) shall, except as may be otherwise provided by these bylaws, operate as a release of all right, title, and interest of the member in the property and assets of the Association; provided, however, that such termination of membership shall not release the member from debts or liabilities of such member to the Association.

ARTICLE IV OFFICERS

Section 1. Election and Term of Office.

A. The elected officers of the Association shall be a president, vice president, and secretary-treasurer, elected by and from the Association board.

B. Elected officers shall be elected for a term of two years or until a successor assumes office. The term of office shall begin at the close of the business session of the annual meeting next following their election. Each officer shall be eligible for election to only one full term in each office. Service for more than half of a term shall be considered as a full term. Election as an officer shall not create a vacancy as a director.

Section 2. Removal and Vacancy.

A. An officer may be removed with or without cause by a two-thirds vote of the members voting at a regular or special meeting. The officer involved shall have an opportunity to be heard at such meeting. An officer may also be removed with or without cause by a majority of the board at a regular or special meeting.

B. A vacancy in the office of president shall be filled by the vice president. A vacancy in the office of vice president or secretary-treasurer shall be filled by the board of directors.

Section 3. Duties of Elected Officers.

A. **President.**
The duties of the president shall be as follows:

- (1) To be the principal elected executive officer and preside over all meetings of the members and the board;
- (2) To chair the executive committee;
- (3) To perform all other duties incident to the office of president and such other duties as may be prescribed by the governing documents of the Association or by the board.

B. **Vice President.**

The duties of the vice president shall be as follows:

- (1) To perform the duties of the president in his or her absence;
- (2) To become president in the event of a vacancy in that office;
- (3) To perform all other duties incident to the office of vice president and such other duties as may be prescribed by the governing documents of the Association or by the board.

C. **Secretary-Treasurer.**

The duties of the secretary-treasurer shall be as follows:

- (1) To be responsible for the accurate production of minutes of all meetings of the members, board of directors, and executive committee;
- (2) To ensure that all notices are duly given in accordance with these bylaws or as required by law;
- (3) To have general charge of the books of the Association, and to be responsible for all funds and securities of the Association;

- (4) To perform all other duties incident to the office of secretary and such other duties as may be prescribed by the governing documents of the Association or the board of directors.

D. **Reports.** At each annual meeting of the members, the officers of the Association shall submit reports covering the business of the Association for the previous fiscal year and showing the condition of the Association at the close of such fiscal year.

ARTICLE V MEETINGS

Section 1. Annual Meeting.

- A. The annual meeting of the members shall be held at any time between January 1 and June 30th at a time and place determined by the board of directors.
- B. Notice of an annual meeting shall be delivered to each member no less than forty-five (45) days nor more than sixty (60) days before the date of the meeting. Notice shall be deemed to have been delivered when deposited in United States mail, having postage paid, and sent to the address as listed in Association records. Any member may waive notice in writing before or after the meeting.
- C. The order of business at annual meetings shall be determined by the president, but may be changed by the members by a two-thirds vote.

Section 2. Quorum and Delegates.

- A. The presence of voting delegates representing at least five percent (5%) of the total number of the voting members of the Association shall constitute a quorum for the transaction of business at all business meetings. In the event that less than a quorum is present, a majority of those present may adjourn the meeting from time to time without further notice.
- B. Each voting member shall be entitled to select, either by vote of its membership or its board of directors, one of its members, directors, or employees to act as the voting delegate, and one such person to act as the alternate delegate, at meetings of the Association.

C. All voting delegates must submit certification signed by the president and secretary of the member that such delegate is duly authorized to cast the vote of the member.

D. No individual may represent more than one member. Each delegate may only have one vote.

E. Proxy voting is prohibited in all meetings.

F. All Association membership resolutions, whether new, prior-year new, or continuing, and any amendments to such resolutions, shall require a majority vote.

Section 3. Special Meetings.

A. Special meetings of the members may be called by the board of directors, the executive committee, or upon a written request signed by at least ten percent (10%) of all of the voting members.

B. The date, time, and place of a special meeting shall be specified by the board of directors or the executive committee. Only business specified in the call of the meeting shall be conducted at a special meeting.

C. Notice of a special meeting shall be delivered to each voting member no less than forty-five (45) days nor more than sixty (60) days before the date of the meeting, and must include the business to be transacted at the meeting. If the meeting is called upon written request of the voting members, the notice of special meeting shall be delivered within ten days, and the meeting shall take place within 30 days of such written request. Notice shall be deemed to have been delivered when deposited in United States mail, having postage paid, and sent to the address as

listed in Association records. Any member may waive notice in writing before or after the meeting.

Section 4. Regional Meetings.

A. Regional meetings shall be held not less than forty-five (45) days before the annual meeting. Each region shall hold a business meeting for the purpose of electing standing committee members and for the purpose of proposing resolutions for consideration by standing committees at the annual meeting. Each member cooperative assigned to a region shall be entitled to have one voting delegate to represent its membership and to debate and vote on their behalf.

B. Each regional meeting shall be called and presided over by the member of the executive committee for that region, or in the event of his/her absence, selected by the members present. Each member shall be notified of the time and place of this meeting not less than forty-five (45) days nor more than sixty (60) days in advance of said meeting.

C. The presence of voting delegates representing at least five percent (5%) of the total number of voting members in the region shall constitute a quorum for the transaction of business. In the event that less than a quorum is present, a majority of those present may adjourn the meeting from time to time without further notice.

D. The order of business at regional meetings shall be determined by the NRECA president. Such order may be amended by a two-thirds vote.

Section 5. Regions.

A. The United States, its territories and possessions shall be divided into ten (10) regions as follows:

Region I: Maine, Vermont, New Hampshire, Massachusetts, New York, Connecticut, Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina and the District of Columbia.

Region II: South Carolina, Georgia, Florida, and all territories, possessions and commonwealths of the United States bordering upon or in the Atlantic Ocean.

Region III: Kentucky, Tennessee, Mississippi and Alabama.

Region IV: Michigan, Indiana, Ohio and West Virginia.

Region V: Wisconsin, Iowa and Illinois

Region VI: North Dakota, South Dakota and Minnesota.

Region VII: Wyoming, Nebraska, Colorado and Kansas.

Region VIII: Oklahoma, Missouri, Arkansas and Louisiana.

Region IX: Washington, Montana, Idaho, Oregon, Nevada, California, Utah, Alaska, Hawaii, and all territories, possessions and commonwealths of the United States bordering upon or in the Pacific Ocean.

Region X: Arizona, New Mexico and Texas.

Section 6. State Meetings.

A. **Quorum.** The presence of voting delegates representing at least five percent (5%) of the total number of voting members in the state shall constitute a quorum for the transaction of business. In the event that less than a quorum is present, a majority of those present may adjourn the meeting from time to time without further notice.

B. The order of business for state meetings shall be as determined by the director for that state. Such order may be amended by majority vote before adoption, and a two-thirds vote after adoption.

**ARTICLE VI
BOARD OF DIRECTORS**

Section 1. Authority.

A. The business and affairs of the Association shall be managed under the direction of a board of directors, which shall exercise all of the powers of the Association between annual meetings except those otherwise reserved to the members. This power includes the power to develop and implement a policy providing for reasonable director compensation and reimbursement.

B. The board shall have full power and authority to borrow money from the United States of America, or any agency, or instrumentality thereof, or any bank or individual. In connection with such borrowing, the board may:

- (1) authorize the making and issuance of bonds, notes or other evidences of indebtedness,
- (2) authorize the execution and delivery of a mortgage or mortgages,
- (3) authorize a deed or deeds of trust upon, or the pledging or encumbering of any or all of the property, assets, rights, privileges, licenses, franchises, and permits of the Association, whether acquired or to be acquired and wherever situated.

C. In all such cases as outlined in Section B above, the board shall have the authority to set such terms and conditions as it shall determine.

Section 2. Election of Directors.

A. One director shall be elected from each state in which a voting member is located. The chief executive officer, in consultation with the board member representing that state, shall ascertain the time, place, and procedure for the holding of the election, provided that the election is held at least ten days prior to the annual meeting of the board of directors. The name of the director elected shall be promptly reported to the secretary-treasurer.

B. The director representing that state shall inform the Association of the date for the election at least 60 days prior to the election. The Association shall, at least 40 days prior to the date of the election, send notice to each voting member located in that state of the time, place and procedure for the election.

C. Eligible candidates for election shall be persons who are either located in that state in accordance with Article III, Section 1(D) and are a member, director, officer, or employee of a voting member in good standing located in that state. The board of directors may develop, implement, and enforce a policy providing director conflict of interest qualifications.

D. Directors shall be elected for a term beginning with the annual meeting of the board following their election, and ending with the annual meeting of the board two years hence.

E. A director may be removed with or without cause, by a vote of two-thirds of the members voting at a regular or special meeting. The director involved shall have an opportunity to be heard at said meeting.

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F. If any director fails to comply with or meet any director qualification established by these bylaws or any director qualification policy authorized by these bylaws, then, unless otherwise determined by the board for good cause, the board may disqualify the director and the individual is no longer a director.

- (1) If the board notifies the director in writing of the basis for, and provides the director an opportunity to comment regarding, the board's proposed disqualification; and
- (2) Within thirty (30) days after the board notifies the director of the proposed disqualification, the director neither complies with nor meets the director qualification.

G. A vacancy in the position of director shall be filled by the member of the executive committee for that director's region, after consultation with the members of the state from which the director was elected, until such time as the members of the state from which the director was elected hold an election for that unexpired term, except that a vacancy caused by the removal of a director shall only be filled by the voting members of the state from which the director was elected.

Section 3. Quorum.

A majority of the board shall constitute a quorum for the conduct of business. If less than a majority are present at any meeting, a majority of those present may adjourn from time to time without further notice.

Section 4. Meetings.

A. An annual meeting of the board shall be held in conjunction with the annual meeting of the members at a time and place chosen by majority vote of the board. Regular meetings shall be held on the call of the president, the executive committee, or by request of 20% of the board.

B. Special meetings may be held by majority vote of the executive committee or by request of 20% of the board. Only the business specified in the call of the meeting may be transacted at that special meeting.

C. Notice of the annual meeting of the board and all regular meetings of the board shall be given to all members of the board at least ten business days in advance of the meeting. Notice of special meetings shall be given to all members of the board at least three business days in advance of such meeting. Any director may waive notice in writing before or after any regular or special board meeting.

D. Unless otherwise restricted by law, the board may participate in meetings by means of a conference telephone or other electronic means of communication by which all persons participating in the meeting can hear and speak to one another.

Section 5. Executive Committee.

A. There shall be an executive committee of the board, comprised of the officers of the Association, plus one director from each region elected by the directors from that region. The directors from each region shall elect the executive committee member at the annual meeting of the board. The term of office of members of the executive committee shall be for one year, or until the next annual

meeting of the board. In case of a vacancy on the executive committee, the president shall appoint a director from that region to fill the vacancy for the unexpired term of the vacant office.

B. The executive committee may act for and instead of the board during intervals between board meetings, subject to policies agreed upon by the board. The executive committee shall keep minutes of all its meetings, as well as reports of all its acts. A copy of all minutes and reports must be furnished to each director no later than fifteen days after the date of any meeting.

C. Meetings of the executive committee shall be held at the call of the president or of a majority of the members of the executive committee. The president shall fix the time and place of the meeting. All members of the executive committee must be given at least three days notice, but any member of the executive committee may waive notice in writing before or after an executive committee meeting. Attendance at or participating in a meeting of the executive committee shall constitute waiver of notice of the meeting.

D. Unless otherwise restricted by law, the executive committee may participate in meetings by means of a conference telephone or other electronic means of communication by which all persons participating in the meeting can hear and speak to one another.

ARTICLE VII ADMINISTRATION

Section 1. **Association Office.** The Association shall maintain an office for the conduct of the business of the Association. Such office shall be under the direct supervision and authority of a chief executive officer.

Section 2. Administrative Officers.

A. **Chief Executive Officer.** The board of directors shall appoint or designate a chief executive officer. The chief executive officer shall report to and perform duties under the direction of the board as the board may require and shall have such authority as the board may delegate from time to time.

B. The board may designate other such administrative officers and delegate to them such authority as deemed necessary for the administration of the Association.

Section 3. **Corporate Seal.** The corporate seal of the Association shall be in the form of a circle and shall have inscribed thereon the name of the Association.

Section 4. Financial.

A. The fiscal year of the Association shall begin on the first day of January of each year and end on the thirty-first day of December of the same year.

B. The board of directors shall require the secretary-treasurer or any other person under the authority of the Association charged with responsibility for the custody of

any of its funds or property to give bond in such sum and with such surety as the board of directors shall determine.

C. At the close of each fiscal year the net savings of the Association, if any, shall be allocated in the following order:

- (1) There shall be transferred to a reserve to be known as the "Accumulated Operating Margins" such amounts as the board of directors may determine, which fund may be used under the direction of the board of directors for any necessary or approved activity of the Association.
- (2) If, in the sole discretion of the board, the balance of the reserve in the accumulated operating margins account exceeds the continuing needs of the Association, the board may specify an amount to be repaid to the members of the Association in proportion to the amounts which each such member has paid to the Association during the preceding fiscal year as annual dues.

ARTICLE VIII COMMITTEES

Section 1: Standing Committees.

A. The board may create and dissolve standing committees as it deems necessary, and shall define the duties and prescribe the authority of such committees.

B. There shall be one person elected from each region to serve on each standing committee. The election shall take place at the regional meeting. The term of office shall begin immediately upon election and shall continue until the next regional meeting. Standing committees shall elect their own chair.

C. Vacancies on standing committees shall be filled by the executive committee member from that region, after consultation with all other directors from that region.

Section 2. Special Committees.

A. The president may establish and dissolve special committees for specific purposes, which shall automatically go out of existence when the task is completed and/or the final report is filed.

B. Vacancies on special committees shall be filled by the president.

Section 3. Committee Meetings.

A. Standing committees shall meet at a time preceding the Association's annual meeting each year, and at other times as directed by the board.

B. Special committees shall meet as directed by the president.

C. All committees may meet by means of a conference telephone or other electronic means of communication by which all persons participating can hear and speak to one another.

ARTICLE IX PARLIAMENTARY AUTHORITY

The rules contained in Robert's Rules of Order Tenth Edition (2000) shall govern the Association in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Association may adopt.

ARTICLE X AMENDMENT

Section 1. Proposed Amendments.

A. Amendments to these bylaws may be proposed by a member committee authorized by the board or president, or proposed by a region, the board, or the executive committee.

B. The exact text of the proposed amendment and any supporting documentation must be received by the Association office at least 120 days before the date of the Association annual meeting, except that if a regional

meeting or board meeting takes place less than 120 days prior to the date of the Association annual meeting, proposed amendments from that region or the board must be submitted to the Association office within 48 hours of the close of that meeting. Whenever possible, proposed amendments received will be made available for review at regional meetings.

C. The executive committee shall review all proposed amendments and may recommend adoption, defeat, or amendment of the proposal.

Section 2. Adoption.

A. Notice of proposed bylaw amendments shall be sent to members with the notice of the meeting.

B. Except as provided in Section 2(C), a two-thirds vote of the members present at an annual meeting shall be required to amend these bylaws.

C. If proposed amendments have not been received at least 120 days before the meeting, or if notice to the members has not been given as required in this section, these bylaws may be amended by a two-thirds vote to consider and a three-fourths vote to adopt. Debate on a motion to consider a proposed amendment shall be confined to the merits of consideration.

Section 3. Distribution. Copies of amended bylaws shall be generated and distributed to all members as soon as possible after the annual meeting of the members.

**ARTICLE XI
ELECTRONIC DOCUMENTS**

If a member owns, controls, or has reasonable access to the hardware and software specified by NRECA, then, regardless of any contrary bylaw:

A. The member agrees to:

- (1) Use, accept, send, and receive electronic signatures, contracts, records, notices, communications, and other documents regarding any transaction with, for, or involving NRECA;
- (2) Conduct any action or transaction with, for, or involving NRECA by electronic means; and
- (3) Give this consent electronically, or confirm this consent electronically; and

B. As determined by the board:

- (1) Any electronic signature, contract, record, notice, communication, or other document to or from the member satisfies any requirement imposed by law, the articles of incorporation, or these bylaws that the underlying signature, contract, record, notice, communication, or other document be in writing;
- (2) Electronically sending or receiving any electronic signature, contract, record, notice, communication, or other document to or

from the member satisfies any requirement imposed by law, the articles of incorporation, or these bylaws that the underlying signature, contract, record, notice, communication, or other document be sent or received personally or by mail; and

- (3) The member electronically taking any action provided in these bylaws satisfies any requirement imposed by law, the articles, or these bylaws regarding the form or manner of taking the action.

All electronic signatures, contracts, records, notices, communications, and other documents sent electronically to a member or former member at the member or former member's last known electronic address are considered sent and received on the date sent. All electronic signatures, contracts, records, notices, communications, and other documents sent electronically to NRECA from a member or former member are considered sent and received on the date received by NRECA.

**ARTICLES OF INCORPORATION
OF
NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION**

We the undersigned, five or more natural persons, of the age of 21 years or more, do hereby voluntarily associate ourselves together and form a nonprofit corporation under the District of Columbia Cooperative Association Act (June 19, 1940, 54 Stat., Chapt. 397, Section 47), and to that end duly adopt and acknowledge the following Articles of Incorporation:

ARTICLE I

The purposes of this Association shall be:

1. To engage in the compilation and dissemination of information with respect to rural electrification and the furnishing of other services to rural electric cooperatives and others in connection with the coordination, advancement and development of rural electrification in the United States of America, its Territories and Possessions, for the primary and mutual benefit of the patrons of the Association and their patrons, as ultimate consumers.

The powers of the Association shall be those set forth in the Act and shall be exercised by the Association's Board of Directors in accordance with the purpose and provisions of the Act, the Association's Articles, and Bylaws and the decisions of its membership meetings and in pursuance of

its purposes. The powers of the Association include the power to act as a registered agent for corporations.

ARTICLE II

The name of the Association shall be "National Rural Electric Cooperative Association."

ARTICLE III

The term of existence of the Association shall be perpetual.

ARTICLE IV

The principal office of the Association shall be located at 4301 Wilson Boulevard, in the County of Arlington, Virginia.

ARTICLE V

The names and addresses of the incorporators of the Association are as follows:

William Jackman, 16 Court Street, Freehold, New Jersey
Steve C. Tate, Tate, Georgia
Will Hall Sullivan, Lafayette, Tennessee
Dolph H. Wolf, Portland, Michigan
E.J. Stoneman, Platteville, Wisconsin
Harry Edmanis, Cedar, Minnesota
J.C. Nichols, Cody, Wyoming
Thomas B. Fitzhugh, Pyramid Building, Little Rock, Arkansas
E.D.H. Farrow, Itasca, Texas
Raymond A. Walker, Fulton, Missouri

ARTICLE VI

The names and addresses of the directors who shall manage the affairs of the Association for the first year, unless sooner changed by the Members are as follows:

- William Jackman, 16 Court Street, Freehold, New Jersey
- Steve C. Tate, Tate, Georgia
- Will Hall Sullivan, Lafayette, Tennessee
- Dolph H. Wolf, Portland, Michigan
- E.J. Stoneman, Platteville, Wisconsin
- Harry Edmunds, Cedar, Minnesota
- J.C. Nichols, Cody, Wyoming
- Thomas B. Fitzhugh, Pyramid Building, Little Rock, Arkansas
- E.D.H. Farrow, Itasca, Texas
- Raymond A. Walker, Fuhon, Missouri

ARTICLE VII

The Association is organized without shares and the number of memberships subscribed for is ten.

ARTICLE VIII

The property rights of Members in this Association shall be equal.

ARTICLE IX

In the event of the dissolution of this Association, its assets shall be distributed in the following manner and order:

1. By paying its debts and expenses.
2. By returning to the Members of the Association the par value of their membership certificates.
3. By distributing the surplus to all of the rural electric cooperatives that are Members of this Association at the time of such dissolution, on a pro rata basis in proportion to the payments made by each such member cooperative during the twelve months preceding the date of dissolution.

IN WITNESS WHEREOF the incorporators have hereunto signed their names this 19th day of March, 1942.

William Jackman	Harry Edmunds
Steve C. Tate	J.C. Nichols
Will Hall Sullivan	Thomas B. Fitzhugh
Dolph H. Wolf	E.D.H. Farrow
E.J. Stoneman	Raymond A. Walker

The National Rural Electric Cooperative Association (NRECA) represents the national interests of consumer-owned electric cooperative utilities.

NRECA provides legislative, legal and regulatory services; and programs in insurance, management and employee education, training, consulting, market and cooperative development, public relations and other strategic services.

NRECA and its member cooperatives also support energy and environmental research and administer a program of technical advice and assistance in developing countries around the world.



**National Rural Electric
Cooperative Association**

• A Tristate Energy Cooperative 

4911 Wilson Boulevard
Arlington, VA 22205-1860
(703) 967-8900
www.nreca.org